

EXHIBIT 11

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY

3 IN RE JOHNSON & JOHNSON §
4 TALCUM POWDER PRODUCTS § MDL NO.:
5 MARKETING, SALES §
6 PRACTICES, AND PRODUCTS § 16-2738 (MAS) (RLS)
7 LIABILITY LITIGATION §

8 *****
9 REMOTE VIDEOCONFERENCED DEPOSITION OF
10 WILLIAM SAGE, M.D.
11 *****

12 APRIL 1, 2024
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25 Job No. 6485334

Page 2	I N D E X	Page 4
1 REMOTE VIDEOCONFERENCED DEPOSITION OF WILLIAM	1	
2 SAGE, M.D., produced as a witness at the instance	2	
3 of the Defendants, and remotely duly sworn by	3 Appearances	3
4 agreement of all counsel, was taken in the	4	
5 above-styled and numbered cause on April 1, 2024,	5	
6 from 9:25 a.m. to 12:27 p.m., before Karen L. D.	6 WILLIAM SAGE, M.D., J.D.	
7 Schoeve, RDR, CRR, RSA, reported remotely by	7 Examination By Mr. Ewald	8
8 computerized machine shorthand, pursuant to the	8 Examination By Dr. Thompson	128
9 Federal Rules of Civil Procedure and the provisions	9	
10 stated on the record or attached hereto.	10	
11	11 Changes and Signature	131
12	12	
13 REPORTER'S NOTE: Please note that due to the	13 Certified Stenographic	
14 quality of a Zoom videoconference and transmission	14 Court Reporter's Certificate	133
15 of data, overspeaking can cause audio distortion	15	
16 which disrupts the process of preparing a	16	
17 videoconference transcript.	17	
18	18	
19 Quotation marks are used for clarity and do	19	
20 not necessarily reflect a direct quote.	20	
21	21	
22	22	
23	23	
24	24	
25	25	
Page 3		
1 APPEARANCES	1 EXHIBIT INDEX	Page 5
2 ****	2	
3 ALL PARTIES APPEARED REMOTELY VIA ZOOM	3 NO. DESCRIPTION PAGE	
4 FOR THE MDL PLAINTIFFS:	4 Exhibit 1 9	
5 MARGARET M. THOMPSON, ESQUIRE	4 Curriculum Vitae of William M. Sage,	
BEASLEY ALLEN, P.C.	MD, JD	
6 218 Commerce Street	5 (28 pages)	
Montgomery, Alabama 36104	6	
7 T: 800.898.2034	7 Exhibit 2 15	
F: 888.212.9702	7 Invoice, dated 10/01/21	
8 m.thompsonmd@gmail.com	8 (1 page)	
9 FOR THE PLAINTIFF STEERING COMMITTEE:	9 Exhibit 3 16	
10 MICHELLE A. PARFITT, ESQUIRE	9 Invoice, dated 01/15/24	
ASHCRAFT & GEREL	10 (1 page)	
11 701 East Bay Street, Suite 411	10 Exhibit 4 19	
Charleston, South Carolina 29403	11 Amended Rule 26 Expert Report of	
12 T: 843.699.8280	11 William Sage, MD, JD, dated 11/15/23	
F: 850.435.7000	12 (99 pages)	
13 mparfitt@ashcraftlaw.com	13 Exhibit 5 31	
14 FOR PLAINTIFF NEW JERSEY STATE COURT:	13 Amended Rule 26 Expert Report of	
15 RICHARD GOLOMB, ESQUIRE	14 William Sage, MD, JD Amended Exhibit B	
GOLOMB LEGAL	14 - Materials Considered List, dated	
16 130 North 18th Street, 16th Floor	15 03/27/24	
Philadelphia, Pennsylvania 19103	15 (24 pages)	
17 T: 215.278.4449	16 Exhibit 6 31	
18 FOR DEFENDANTS JOHNSON & JOHNSON:	17 Amended Rule 26 Expert Report of	
19 JOHN EWALD, ESQUIRE	17 William Sage, MD, JD Second Amended	
KING & SPALDING LLP	18 Exhibit B - Materials Considered List,	
20 1185 Avenue of the Americas, 34th Floor	18 dated 03/27/24	
New York, New York 10036	19 (24 pages)	
21 D: 212.790.5341	20 Exhibit 7 32	
T: 212.556.2100	20 Amended Rule 26 Expert Report of	
22 jewald@kslaw.com	21 William Sage, MD, JD Third Amended	
23	21 Exhibit B - Materials Considered List,	
CERTIFIED STENOGRAPHIC COURT REPORTER:	22 dated 03/31/24	
24 Karen L. D. Schoeve, CRR, RDR, RSA	23 (24 pages)	
25	24	
	25	

		Page 6		Page 8
1	Exhibit 8	32	1	P R O C E E D I N G S
2	United States Government Accountability Office Report to Congressional Requesters, titled "Cosmetic Safety - Better Planning Would Enhance FDA Efforts to Implement New Law"	(77 pages)	2	THE COURT REPORTER: If the
3			3	attorneys could please introduce
4			4	themselves for the record, then I will
5			5	swear in the witness.
6	Exhibit 9	35	6	DR. THOMPSON: Hi. This is
7	Congressional Research Service document, titled "FDA Regulation of Cosmetics and Personal Care Products Under the Modernization of Cosmetics Regulation Act of 2022 (MoCRA)"	(25 pages)	7	Margaret Thompson, with Beasley Allen, for
8			8	MDL plaintiffs.
9	Exhibit 10	36	9	MS. PARFITT: Michelle Parfitt for
10	Expert Report of George E. Newman, Ph.D., dated 11/15/23	(83 pages)	10	the plaintiff steering committee.
11			11	MR. EWALD: And John Ewald for J&J.
12	Exhibit 11	45	12	DR. THOMPSON: And while Richard
13	White paper titled "IWGACP Scientific Opinions on Testing Methods for Asbestos in Cosmetic Products	(31 pages)	13	Golomb is not currently -- he will be
14	Containing Talc"	(31 pages)	14	joining -- Sir Richard Golomb,
15	Exhibit 12	53	15	representing New Jersey State litigation.
16	MAS report titled "Analysis of Non-Historical J&J's Talcum Powder	(20 pages)	16	THE COURT REPORTER: Okay. Thank
17	Consumer Product Containers and J&J Chinese Historical Talc Retain Samples," dated 11/17/23	(20 pages)	17	you, everyone.
18			18	WILLIAM SAGE M.D.,
19	Exhibit 13	84	19	having been first duly sworn to tell the truth, the
20	FDA Public Meeting transcript, dated 02/04/20	(382 pages)	20	whole truth, and nothing but the truth, so help him
21			21	God, testified as follows:
22	Exhibit 14	104	22	EXAMINATION
23	Johnson & Johnson letter to Windsor Minerals, Inc, dated 02/23/1978	Bates stamped JNJMX68 000003591 - 3592	23	BY MR. EWALD:
24	Protected Document - Subject to Protective Order	(25 pages)	24	Q. Good morning, Doctor. Where are you
25			25	located today?
		Page 7		Page 9
1	Exhibit 15	120	1	A. Good morning. I am in a hotel room in
2	Article in Press, titled "Characterization of elongate mineral particles including talc, amphiboles, and biopyriboles..."	(17 pages)	2	downtown Fort Worth, Texas.
3			3	Q. And we've discussed this off the record
4			4	collectively, but who was in the room with you
5			5	currently?
6			6	A. Currently, Margaret Thompson.
7			7	Q. Okay. Let's go ahead and start with your
8			8	CV. We'll mark that as Exhibit 1. First, let me
9			9	just pull it up, and you can let me know if it is
10			10	the current version.
11			11	(Exhibit 1 marked.)
12			12	BY MR. EWALD:
13			13	Q. Okay. Doctor, do you see that?
14			14	A. (Examined exhibit.) I do.
15			15	Q. And this is what we were provided by
16			16	plaintiffs' counsel. I'm not sure if there's a
17			17	date on it anywhere, but is -- does this appear to
18			18	be the current version of your CV?
19			19	A. If you don't mind scrolling down to page
20			20	5, that's an easy check for me.
21			21	Q. Okay. (Scrolling.)
22			22	A. So far so good.
23			23	Q. (Scrolling.)
24			24	A. Stop.
25			25	Q. (Scrolling.)

<p>1 A. Stop.</p> <p>2 Q. (Complied.)</p> <p>3 A. That one. Yep. That --</p> <p>4 Q. Okay.</p> <p>5 A. -- that looks like my current CV.</p> <p>6 Q. All right. And while we're here it talks</p> <p>7 about -- where you said "Stop" -- "Book Chapters,"</p> <p>8 you're an author on "Private Law as Health Law:</p> <p>9 What It Means, Why It Matters, in Health Law As</p> <p>10 Private Law." It's forthcoming later this year;</p> <p>11 is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And can you just, very briefly, just</p> <p>14 describe what the nature is of that book chapter?</p> <p>15 A. This was an invited academic book,</p> <p>16 looking at the ways in which U.S. health law is</p> <p>17 driven by private parties. Very little, if any,</p> <p>18 of my book chapter has to do with product</p> <p>19 liability or tort law. Almost all of it has to do</p> <p>20 with system issues in terms of how budgetary</p> <p>21 allocations are made, what is done by direct</p> <p>22 government, and what is done indirectly through</p> <p>23 private parties. And it's much more focused on</p> <p>24 the private parties who comprise the healthcare</p> <p>25 system, such as hospitals and physicians, than on</p>	Page 10	<p>1 social service professionals, usually to help</p> <p>2 patients from vulnerable communities to deal with</p> <p>3 what we call "health-harming legal needs." And</p> <p>4 these fall in sort of income and insurance,</p> <p>5 education, employment, housing, legal status,</p> <p>6 whether it's immigration, veteran status or the</p> <p>7 like. And then personal matters which are usually</p> <p>8 matters of family and personal -- and familial</p> <p>9 safety. Again, nothing in this has anything to do</p> <p>10 with tort liability or product liability.</p> <p>11 Q. Fair enough. Let's go back to the top of</p> <p>12 your CV.</p> <p>13 A. (Complied.)</p> <p>14 Q. And do you recall -- maybe not a specific</p> <p>15 date -- but do you recall that you were deposed in</p> <p>16 this case, for the first time, back in around</p> <p>17 September 2021? Does that sound right?</p> <p>18 A. Absolutely.</p> <p>19 Q. All right.</p> <p>20 A. I think it -- I think it was -- yeah, it</p> <p>21 was, like, the last week of September.</p> <p>22 Q. And not -- wasn't going to be my next</p> <p>23 question, but when I -- have you reviewed your</p> <p>24 deposition transcript in preparation for today's</p> <p>25 deposition?</p>	Page 12
<p>1 other private parties.</p> <p>2 Q. To the extent that that chapter covers</p> <p>3 product liability litigation, can you give me a</p> <p>4 sense of what is discussed?</p> <p>5 A. I suspect almost nothing. I didn't go</p> <p>6 back to look at the most recent draft. But that</p> <p>7 wasn't the import. This is an overview</p> <p>8 introductory chapter I was invited to contribute</p> <p>9 to a book that's on many topics. I don't think</p> <p>10 any of the chapters, that I recall, are focused on</p> <p>11 product liability or tort liability.</p> <p>12 Q. Thank you. And so now we've moved down</p> <p>13 to page 7 of the CV under "Articles," and there's</p> <p>14 another submitted for publication where you are a</p> <p>15 coauthor, and it's titled, "Public Investment in</p> <p>16 MLP: Why It's Time to be Explicit that Legal Care</p> <p>17 is Health Care."</p> <p>18 Can you just describe again, very</p> <p>19 generally, what that article's about?</p> <p>20 A. Certainly. This was invited by the AMA's</p> <p>21 journal of ethics. It's now gone through most</p> <p>22 stages of editing, and it is provisionally and</p> <p>23 almost finally accepted in the usual course of</p> <p>24 things. Medicolegal partnership is a</p> <p>25 collaboration between medical, legal, and other</p>	Page 11	<p>1 A. I have barely skimmed it. It was not a</p> <p>2 focus of the preparation for today.</p> <p>3 Q. All right. Since you were deposed, it</p> <p>4 appears that you have made a change in your work,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. All right. Can you describe what</p> <p>8 prompted the move from the University of Texas to</p> <p>9 Texas A&M?</p> <p>10 A. I was offered the opportunity to have</p> <p>11 multiple-component academic appointment at A&M and</p> <p>12 to have chancellor's funding to launch a health</p> <p>13 policy institute which we call the Institute For</p> <p>14 Healthcare Access. I remain an academic in terms</p> <p>15 of teaching and research, but -- so it's not a</p> <p>16 major career change, but it is a change of</p> <p>17 University and a great opportunity.</p> <p>18 Q. And it does sound like a good</p> <p>19 opportunity, and as a undergraduate and law school</p> <p>20 graduate of the University of Texas, I won't hold</p> <p>21 it against you for going to A&M.</p> <p>22 A. I could make a hook 'em for you</p> <p>23 (demonstrating).</p> <p>24 Q. Let the record reflect, he just did the</p> <p>25 hook 'em sign. My wife was born in College</p>	Page 13

<p>1 Station, so it's about even.</p> <p>2 But I'm sorry. I don't want to delve</p> <p>3 too much into it, but if we're talking about the</p> <p>4 teaching component in Texas A&M, how does that</p> <p>5 differ, if at all, from what you were teaching in</p> <p>6 2021 at the time of your first deposition?</p> <p>7 A. It doesn't differ much from what I was</p> <p>8 teaching in 2021 because I was a visiting</p> <p>9 professor at George Washington University that</p> <p>10 fall, and that's why the deposition was taken in</p> <p>11 Washington, D.C.</p> <p>12 I am delighted that with A&M, I get</p> <p>13 to teach half of 1L class, their required</p> <p>14 legislation and regulation course, which is the</p> <p>15 course I developed and taught for over a decade at</p> <p>16 Columbia Law School, and it's the one that grounds</p> <p>17 my expertise in regulatory theory and in aspects</p> <p>18 of the regulatory state that are central to my</p> <p>19 report.</p> <p>20 Q. All right. During your first deposition,</p> <p>21 you were asked some questions about the approval</p> <p>22 requirements at University of Texas School of Law</p> <p>23 for you to do consulting work. You generally --</p> <p>24 you don't need to remember the specific questions,</p> <p>25 but do you recall being questioned on that?</p>	Page 14	<p>1 Q. And the (as read) "For" is "Further</p> <p>2 research in connection with deposition testimony,</p> <p>3 deposition preparation, and deposition from</p> <p>4 July 27th through September 30th, 2021?"</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. And for this time period between</p> <p>8 July 27th to September 30th, 2021, you have billed</p> <p>9 a total of 74 hours at your past rate of \$800 an</p> <p>10 hour for a total of 59,200, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And have you been paid by counsel for</p> <p>13 this invoice?</p> <p>14 A. For that one, yes.</p> <p>15 Q. Okay. And this reflects preparation for</p> <p>16 deposition, 46 hours, correct?</p> <p>17 A. That's what it says on the invoice, yes.</p> <p>18 Q. And -- all right.</p> <p>19 We'll mark as Exhibit 3 another</p> <p>20 invoice.</p> <p>21 (Exhibit 3 marked.)</p> <p>22 A. (Examined exhibit.)</p> <p>23 BY MR. EWALD:</p> <p>24 Q. And this invoice is dated January 15th,</p> <p>25 2024, and it covers preparation of amended expert</p>	Page 16
<p>1 A. Yes.</p> <p>2 Q. Okay. How, if at all, does the</p> <p>3 guidelines at Texas A&M on consulting work done by</p> <p>4 you differ from the time that you were at</p> <p>5 University of Texas?</p> <p>6 A. I wouldn't be able to make that</p> <p>7 comparison for you casually. But I will say that</p> <p>8 before I did any work on this case, I went -- I</p> <p>9 reviewed and went through the requirements for</p> <p>10 Texas A&M University and received all the required</p> <p>11 approvals.</p> <p>12 Q. And do all of the fees that you receive</p> <p>13 in connection with this consulting work still go</p> <p>14 directly to you?</p> <p>15 A. Yes.</p> <p>16 Q. And am I correct that your current hourly</p> <p>17 rate is \$900 per hour?</p> <p>18 A. Yes.</p> <p>19 Q. All right. Okay. Doctor, I want to show</p> <p>20 you a couple of invoices that we've received from</p> <p>21 plaintiffs' counsel. We'll mark as Exhibit 2 this</p> <p>22 invoice dated October 1st, 2021.</p> <p>23 (Exhibit 2 marked.)</p> <p>24 A. (Examined exhibit.)</p> <p>25 BY MR. EWALD:</p>	Page 15	<p>1 report from October 1st through November 15th,</p> <p>2 2023, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And so I want to talk about, before</p> <p>5 getting into the time that is reflected on this</p> <p>6 invoice and how you spent it, what, if anything,</p> <p>7 did you do in connection with your work on this</p> <p>8 case, from the date of your deposition on</p> <p>9 September 2021, at some point in time, through the</p> <p>10 initial meetings that are reflected here on</p> <p>11 October 1st, 2023?</p> <p>12 A. Oh, I did not do paid work on the case.</p> <p>13 As I recall, your client had several visits to the</p> <p>14 bankruptcy court during that period. I'm a law</p> <p>15 professor and health policy academic. I got</p> <p>16 interested in this topic intensively in</p> <p>17 preparation for the first deposition and that</p> <p>18 work. So obviously, I've -- I followed the case</p> <p>19 and asked occasional questions and seeing what's</p> <p>20 been in the news and looked at, you know,</p> <p>21 whatever -- whatever was happening in the</p> <p>22 regulatory world, largely, as I was preparing</p> <p>23 academic material for teaching, occasionally, for</p> <p>24 writing.</p> <p>25 Q. All right. So then we have this time</p>	Page 17

<p style="text-align: right;">Page 18</p> <p>1 period of October 1st through November 15th with 2 two hours in initial meetings and case review. 3 What did you understand what your task was for 4 this amended report? 5 A. Well, I'd love to look at what's stated 6 in the report so that I'm consistent with what's 7 stated in the report in terms of the questions I 8 was -- (overtalk distorted audio). 9 Q. Sure. Happy -- I'm going to pick that up 10 and should have asked, do you have any documents 11 in front of you? 12 A. I have -- I have in front of me a binder 13 containing, I believe, all the documents that were 14 sent to you as well, but I don't do this often, 15 and I was a corporate lawyer, not a litigator in 16 practice. So the rhythms of Zoom teaching are 17 great. The rhythms of Zoom litigation are not. 18 So tell me what you need. 19 Q. No, and that's just a matter of, as we go 20 through this, and supplement generally what have 21 in front of you, of course, we'll work through any 22 kind of pickups on any side. 23 But do you have a copy of your 24 report -- I'm going to put it up on the screen, 25 but I think it'll be helpful if you have it in</p>	<p style="text-align: right;">Page 20</p> <p>1 THE COURT REPORTER: Yes, ma'am. 2 MR. EWALD: All right. 3 THE COURT REPORTER: Okay. Sorry 4 guys. I couldn't do everything at once 5 there. 6 MR. EWALD: No, you do everything 7 so well, so it's hard to do any more. 8 THE COURT REPORTER: All right. 9 They're admitted, so sorry to interrupt. 10 Doctor, you may answer. 11 THE WITNESS: Thanks. 12 A. So under "B. Methodology" in paragraph 13 11, this, I believe, is unchanged from the first 14 report. The questions I was asked to address in 15 the original and the revised report, "What are the 16 regulatory practices and standards under which 17 manufacturers of cosmetics operate? and Did 18 Johnson & Johnson comply with these standards in 19 its general development, manufacture, marketing, 20 and sale of talcum powder products?" 21 And it says, "I was not asked to give 22 an opinion as to whether talcum product -- powder 23 products cause cancer." 24 MR. EWALD: Y'all are having 25 feedback issues.</p>
<p style="text-align: right;">Page 19</p> <p>1 front of you have, too? 2 A. So I do -- I do have it in front of me. 3 If you want to put it up on the screen, that's 4 great. 5 Q. Okay. Okay. So we'll go ahead and mark 6 Exhibit 4, the amended expert report of Dr. Sage, 7 which is dated November 15th, 2023. 8 (Exhibit 4 marked.) 9 A. (Examined exhibit.) 10 BY MR. EWALD: 11 Q. Okay. Doctor, I'd asked you before 12 bringing this up, essentially, what did you 13 understand your task to be with respect to this 14 amended report? 15 A. So on page 2 -- 16 THE COURT REPORTER: Excuse -- 17 gentlemen, excuse me. I've got people in 18 the waiting room I need to let in, and I 19 can't get to that screen. If you could 20 please put your document down for me. 21 MR. EWALD: Oh. Oh, yeah. Sure. 22 DR. THOMPSON: That's Richard. And 23 I also left to fix my microphone issue, 24 and I'm back on as well so you may have 25 both of us.</p>	<p style="text-align: right;">Page 21</p> <p>1 THE WITNESS: Yes. I -- 2 DR. THOMPSON: That was Richard. 3 He's fixing it. 4 MR. EWALD: Okay. Cool. No 5 worries. 6 BY MR. EWALD: 7 Q. All right. And so -- 8 A. So that -- 9 Q. -- go ahead. 10 A. I -- I was -- so the amended report, 11 after the delay and the progression of these 12 cases, was to make sure that my answer remained 13 the same, given developments in information and 14 particularly given developments in applicable 15 federal law. 16 THE COURT REPORTER: Okay. Sorry 17 to interrupt again, but I need you to put 18 the document down for me. 19 MR. EWALD: Sure. 20 THE COURT REPORTER: Okay. One 21 more time. 22 Okay. There you go. 23 BY MR. EWALD: 24 Q. All right. So understanding you 25 correctly, Doctor, the questions that you were</p>

<p style="text-align: right;">Page 22</p> <p>1 asked to answer were basically the same from the 2 first report to the second report, fair? 3 A. That is correct. 4 Q. All right. And tell me then about your 5 process in determining what needed to be updated 6 from your prior report. 7 A. My process is the same I would engage in 8 in all of my academic work and associated writing, 9 which meant reading carefully what I had written 10 before and asking whether there were documents 11 that plaintiffs' counsel thought I should review. 12 And most important for this, doing a careful 13 personal review of publicly available sources, 14 notably, the modernization of cosmetics before MAC 15 and associated regulation to the extent that 16 exists. 17 Q. All right. And so let's take those 18 separately. 19 The aspect of asking plaintiffs' 20 counsel whether there are any documents that you 21 should review. What, if any, documents were 22 provided to you in connection with you preparing 23 the amended report? 24 A. The two documents that come to mind were 25 the update of the, I guess, Longo report on</p>	<p>1 right? 2 A. I don't know what you received from 3 counsel. 4 Q. All right. Did you play any role in 5 putting together a reference list for your report? 6 A. The role -- yes. The role I played was I 7 was asked to provide to counsel, to be provided to 8 you, documents that I had found on my own that 9 were relative to my report, and I used it as 10 preparation. I sent a -- an e-mail attaching a 11 couple of those, and then I reviewed the list 12 yesterday and noticed something that seemed not to 13 be on the list that I had put in the original 14 e-mail, so I pointed that out, and I hope and 15 believe you were provided that. 16 Q. I was. Thank you. 17 On the Longo -- updated Longo report, 18 is that something that you received back in this 19 September 2023 time frame when you were preparing 20 your amended report? 21 A. This -- I can't recall, actually. I 22 don't remember the -- I don't remember the date. 23 So I don't remember whether it was before the 24 amended report submission or after. 25 Q. And I'll -- well, we'll go through it</p>
<p style="text-align: right;">Page 23</p> <p>1 testing of talcum for presence of asbestos which 2 was an update of a report I had seen before. I 3 also asked regarding marketing practices and the 4 like because that had been an area of relevance of 5 my report the first time and also an area defined 6 of great academic interest. And I was given a 7 report by a Professor Newman that had to do with 8 Johnson & Johnson's marketing. 9 Q. Okay. And the -- sorry? 10 A. I was also -- I was -- I mean, I guess 11 those were things I asked for, which was your 12 question. 13 Q. Yes. Yes. And before we get to that 14 second bucket of what you found on your own, when, 15 approximately, did you receive the updated Longo 16 report? 17 A. I don't recall. I would have to go back 18 and find the day. 19 Q. We'll get to it, but maybe this will ring 20 a bell. I received an amended -- well, let me 21 withdraw the question. 22 I'll represent to you that I've 23 received from counsel three different amended 24 reliance lists -- or reference lists in connection 25 with your amended report. Does that sound about</p>	<p>1 more in a little bit, but I want to circle back to 2 some basics. 3 The research you did on your own in 4 connection with your amended report, can you walk 5 me through generally what that was? 6 A. Um-hum. There's a leading text on food 7 and drug regulation by Hutt and Grossman and maybe 8 another author I can't recall. I looked to see if 9 they had a section on the modernization's act that 10 was relevant and found what they had which was 11 minor, so I didn't specify that and there was not 12 a lot of development in it. I did the basic 13 research for public documents. I went to the FDA 14 website, read everything they had on what they had 15 done, subsequent to my 2021 involvement in this 16 litigation. So that was all, just the FDA website 17 and any FDA website links that were provided 18 there. 19 Then I looked for other government 20 documents. Found a couple of congressional 21 research service reports. Looked at the 2023 one 22 which, as I was looking through it, said that it 23 was built on the 2022 one, so I did not look 24 separately at the 2022 one. I found this 25 government accountability office report. I read</p>

<p>1 that.</p> <p>2 And I think that's -- that's in</p> <p>3 ess- -- oh, and, of course, you know, pulled the</p> <p>4 text of the act. Spent some time trying to figure</p> <p>5 out whether there were constituent bills that had</p> <p>6 gone into the act, but like most federal</p> <p>7 legislation these days, it was done as a</p> <p>8 consolidation app- -- consolidated appropriations</p> <p>9 act, and it was passed at the very end of the year</p> <p>10 in 2022 in the way that these things often are.</p> <p>11 And I wasn't able to trace the origin of statutory</p> <p>12 language, so I just worked directly from what the</p> <p>13 final language was.</p> <p>14 Q. Have you reviewed any Johnson & Johnson</p> <p>15 internal corporate documents since your deposition</p> <p>16 in September 2021?</p> <p>17 A. There were documents referenced in the</p> <p>18 Newman report, but I can't recall having reviewed</p> <p>19 any internal documents.</p> <p>20 Q. And fair to say, as you sit here today,</p> <p>21 you don't recall requesting or receiving any</p> <p>22 internal Johnson & Johnson corporate documents</p> <p>23 since your deposition that were not reflected on</p> <p>24 your earlier reliance list?</p> <p>25 A. I don't recall that, no.</p>	Page 26	Page 28
<p>1 Q. Did anyone assist you, apart from</p> <p>2 plaintiffs' counsel, in connection with the</p> <p>3 preparation of your amended report?</p> <p>4 A. No.</p> <p>5 Q. You talked about one of the things that</p> <p>6 you did on your own was to research what the FDA</p> <p>7 had done in this area -- cosmetic regulation --</p> <p>8 since your deposition in September 2021, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And you have to -- tell me what you</p> <p>11 found. What would you say?</p> <p>12 A. I found that --</p> <p>13 DR. THOMPSON: Object to form.</p> <p>14 You may answer.</p> <p>15 THE WITNESS: That means I go</p> <p>16 ahead?</p> <p>17 BY MR. EWALD:</p> <p>18 Q. Yes.</p> <p>19 A. Sorry. This is not intuitive.</p> <p>20 Q. No, that's okay.</p> <p>21 A. What I found is the FDA had done quite a</p> <p>22 lot. They were doing quite a lot before the</p> <p>23 Modernization Act was finalized, and then the</p> <p>24 passage of the Modernization Act gave them</p> <p>25 specific tasks, notably, developing a standardized</p>	Page 27	Page 29

1 discussed at your first deposition in this case, 2 that caused you to conduct further investigation 3 in preparation for your opinions in your amended 4 report? 5 DR. THOMPSON: Same objection. 6 A. As I said in response to your earlier 7 question, I barely skimmed my deposition 8 transcript, so I have very little direct recall. 9 There was certainly nothing at the time that made 10 me feel in the least uncomfortable with any of the 11 opinions I expressed in the preliminary report. 12 And, yes, I was seriously interested in this 13 matter since. And, you know, I am a health policy 14 academic, and my work is broad, and my teaching 15 involves the fundamentals of legislation and 16 regulation, so of course, I was interested. 17 BY MR. EWALD: 18 Q. Am I correct that you have not provided 19 any deposition or trial testimony in any other 20 litigation matter since you provided deposition in 21 September of 2021? 22 A. That's correct. 23 Q. Have -- since September of 2021, have you 24 been retained as an expert in any other matter? 25 A. No.	Page 30 1 (Exhibit 7 marked.) 2 A. (Examined exhibit.) 3 BY MR. EWALD: 4 Q. Okay. Doctor, I'll scroll down to the 5 last page of Exhibit 7, the third amended 6 Materials Considered list. There are a couple of 7 documents that were highlighted by counsel as new 8 materials that you reviewed. First one I'll ask 9 you about is this "United States Government 10 Accountability Office, Report to Congressional 11 Requesters: Cosmetic Safety: Better Planning Would 12 Enhance Update Efforts to Implement New Law," 13 December of 2023. And I guess we'll go ahead and 14 mark that as Exhibit 8. 15 (Exhibit 8 marked.) 16 A. (Examined exhibit.) 17 BY MR. EWALD: 18 Q. Doctor, can you tell me what, if 19 anything, you are relying on this GAO report -- GAO 20 report for in connection with the opinions in this 21 case? 22 DR. THOMPSON: Can we put that on 23 the screen or in Chat? 24 MR. EWALD: Sure. Sure. 25 DR. THOMPSON: Okay. We don't have
Page 31 1 Q. All right. 2 THE WITNESS: I'm going to grab a 3 sip of water, so I'm going to leave my 4 screen. 5 MR. EWALD: Go for it. 6 BY MR. EWALD: 7 Q. Okay. So I'm just gonna go ahead and 8 mark the three different Materials Considered 9 lists that I have received from counsel in 10 connection with your amended report. I will mark 11 as Exhibit 5 the material -- "Amended Exhibit B - 12 Materials Considered List" that's dated 13 March 27th, 2024. 14 (Exhibit 5 marked.) 15 A. (Examined exhibit.) 16 BY MR. EWALD: 17 Q. Then I have here as Exhibit 6 the "Second 18 Amended Exhibit B - Materials Considered List" 19 which has a date of also March 27th, 2024. 20 (Exhibit 6 marked.) 21 A. (Examined exhibit.) 22 BY MR. EWALD: 23 Q. Then the "Third Amended Exhibit B - 24 Materials Considered List," which I received 25 yesterday, March 31st, 2024.	Page 31 1 a copy of that. 2 THE WITNESS: We do. 3 DR. THOMPSON: Do we? 4 THE WITNESS: Yep. That one there. 5 DR. THOMPSON: Oh, yes, we do. 6 Okay. 7 THE WITNESS: That one we do. The 8 other one we don't. 9 BY MR. EWALD: 10 Q. All right. Well, it's on the screen 11 regardless, so -- 12 DR. THOMPSON: Thank you. 13 MR. EWALD: Of course. 14 BY MR. EWALD: 15 Q. So, Doctor, I'll reask the question. 16 Basically, what, if anything, do you 17 rely on this GAO report, that we've marked as 18 Exhibit 7, for your opinions in this case? 19 A. I was very interested in this report when 20 I did my search for government documents because 21 it was a December '23 date, and that was, you 22 know, among other things, the original 23 congressional deadline for issuing a preliminary 24 standard. 25 I've read this document. GAO is now

<p>1 called the Government Accountability Office. It's 2 what most of us knew was the general accounting 3 office, and so kind of opportunities for 4 congressional and occasionally other requesters to 5 get information about pretty much anything, so I 6 was interested in what it contained.</p> <p>7 I discovered that what it contained 8 was largely the assessor's opinions of how FDA's 9 process complied with whatever the standards they 10 would apply to kind of good government development 11 in terms of staffing, leadership, transparency, 12 and things like that. That was interesting to me, 13 but I didn't rely heavily on it for anything 14 specific to my report. It was more an impression 15 I had of the implementation efforts, but I was 16 grateful that it existed. If I'm -- I'm pretty 17 sure, from being able to read it.</p> <p>18 Q. All right. I'll probably get back to 19 that. But let's talk about the other document on 20 that page, the one we received last night.</p> <p>21 First, let's go back to the third 22 amended. The last document that shows up on that 23 screen is a Nora Wells "FDA Regulation of 24 Cosmetics and Personal Care Products Under the 25 Modernization of Cosmetics Regulation Act of 2022.</p>	Page 34	<p>1 had done in these areas subsequent to my last 2 deposition. That's the short answer.</p> <p>3 Q. Is there anything you can recall from the 4 Nora Wells article that provided you with new 5 information that you previously weren't aware of, 6 that you are relying on in this case?</p> <p>7 A. This was an extremely well done, in my 8 view, review of the law and the changes that had 9 been made from the premodernization version of 10 cosmetics regulation. It wasn't something that 11 drew heavily from outside empirical work or 12 scholarly work or any other source that I would 13 have relied on. So I used it, as I said, as 14 another way of feeling fully confident that my 15 statements in my report were an accurate 16 reflection of the legal change.</p> <p>17 Q. All right. Marking as Exhibit 10 the 18 expert report of George Newman, Ph.D., dated 19 November 15th, 2023.</p> <p>20 (Exhibit 10 marked.)</p> <p>21 A. (Examined exhibit.)</p> <p>22 BY MR. EWALD:</p> <p>23 Q. And this is something that you reviewed, 24 Doctor, in connection with the preparation of your 25 amended report?</p>	Page 36
<p>1 (MoCRA)."</p> <p>2 (Exhibit 9 marked.)</p> <p>3 A. (Examined exhibit.)</p> <p>4 BY MR. EWALD:</p> <p>5 Q. Is that something that you reviewed in 6 connection with your opinions in this case, 7 Doctor?</p> <p>8 A. Yes.</p> <p>9 DR. THOMPSON: And if we could have 10 that up as well.</p> <p>11 MR. EWALD: Sure.</p> <p>12 DR. THOMPSON: Are these being 13 marked as exhibits or --</p> <p>14 MR. EWALD: They are. The GAO is 15 Exhibit 8.</p> <p>16 DR. THOMPSON: And this is 17 Exhibit 9? Thank you.</p> <p>18 MR. EWALD: Of course.</p> <p>19 BY MR. EWALD:</p> <p>20 Q. What, if anything, did you rely on 21 Ms. Wells' article we've marked as Exhibit 9 for 22 your opinions in this case?</p> <p>23 A. I relied on it as a verification of my 24 own insights from reading the text of the new law 25 and from reviewing the FDA's website on what they</p>	Page 35	<p>1 A. This is something I received subsequent 2 to the submission of the revised report but prior 3 to today.</p> <p>4 Q. Okay. And when did -- (overtalk 5 distorted audio).</p> <p>6 A. And I did review it.</p> <p>7 Q. All right. You said you did review it?</p> <p>8 A. Yes.</p> <p>9 Q. Great. And when, approximately, did you 10 receive a copy of this expert report from 11 Dr. Newman?</p> <p>12 A. In the last two weeks or so. I don't 13 know more specifically than that.</p> <p>14 Q. Okay. And how, if at all, does the 15 report of Dr. Newman inform the opinions that 16 you're offering in this case?</p> <p>17 A. Many of the opinions I offer have to do 18 with the informational environment that Johnson & 19 Johnson has created and maintained around its 20 talcum powder products and its marketing 21 activities. Both the history of those marketing 22 activities and more recent versions of those 23 marketing activities are directly relevant.</p> <p>24 Q. All right. And so because this came in 25 after your drafting of the amended expert report</p>	Page 37

<p>Page 38</p> <p>1 that you've submitted in this case, I'm trying to 2 get a sense of -- of how, if at all, you were 3 going to rely on Dr. Newman's report for any of 4 the specific opinions that you are including in 5 your report. 6 A. My litigation experience doesn't allow -- 7 isn't sufficient to answer that question. My 8 understanding was that my -- this deposition 9 reflects my opinions about my report up to the 10 date of the deposition. I don't know beyond that 11 what -- who's supposed to do what, but ... 12 Q. And that's fine. And here's what I'm 13 trying to understand is -- if we go back to your 14 amended report -- your amended report in this 15 case. 16 Let me know when you have it in front 17 of you. 18 THE WITNESS: Where'd my report go? 19 It needs to produce -- here we go. Thank 20 you. No. That's the old one. Thanks. 21 A. Yes, I have it in front of me. 22 BY MR. EWALD: 23 Q. For which sections in your expert report 24 are you relying on the opinions contained in 25 Dr. Newman's report?</p>	<p>Page 40</p> <p>1 rely on, but I'm trying to get a sense from you. 2 You have the expert report -- amended expert 3 report we've marked as Exhibit 4. If you had to 4 say, "This section is primarily what I'm also 5 relying on Dr. Newman's report to support." That 6 is what I'm asking. 7 DR. THOMPSON: Object to form. 8 A. Absolutely. The -- this report is 9 relevant to many of the sections that have to do 10 with Johnson & Johnson's informational obligations 11 which go to the term of art labeling but also go, 12 in general, to their corporate reputation, their 13 stated corporate intent. Representations they've 14 made to -- specifically to consumers and to the 15 broader public about their level of transparency 16 and their understanding of risks and uncertainties 17 around their talcum powder products at the time. 18 And so, therefore, you know, it goes 19 to almost all of the material that has to do with 20 misbranding. It goes to the sections that have to 21 do with Johnson & Johnson's communications as it 22 learned various types of scientific information. 23 And it goes to the section that begins on 24 paragraph 109 where Johnson & Johnson claims it 25 has a robust ethics and compliance program that</p>
<p>Page 39</p> <p>1 A. Again, your question reflects the report 2 as it reflects my opinions as I sit here. 3 Obviously, I can't rely on a written document 4 dated previously to today on something I've 5 received subsequently to that date. 6 Q. I understand. And maybe it was just a 7 bad question on my part. What I'm trying to 8 figure out is -- you have a -- 9 A. So with that -- with that -- 10 Q. Yeah. I'm sorry -- 11 (Speaking simultaneously.) 12 A. With that understanding, I'm happy to 13 answer the question. 14 Q. Yeah. And before you answer, let me just 15 try to make it a little clearer. I may fail. 16 But, you know, you have a, you know, 32-page 17 report, and the first question is: I assume that 18 you are not relying on Dr. Newman's report to 19 further support every single opinion contained 20 over these 33 pages, correct? 21 DR. THOMPSON: Object to form. 22 A. Correct. 23 BY MR. EWALD: 24 Q. And so I'm not asking you to identify 25 every single paragraph that the report that they</p>	<p>Page 41</p> <p>1 goes above and beyond legal requirements. It goes 2 to the next section about resistance to testing, 3 though less so to that one. And it goes heavily 4 to the sections that have to do with 5 misrepresentations and the like that Johnson & 6 Johnson has, in my opinion, made in its marketing 7 material. 8 I'm also very happy to talk about 9 specific insights gained from the Newman report, 10 if you'd like. 11 BY MR. EWALD: 12 Q. Yes. So first of all, thank you. That 13 was an extremely helpful overview. And please -- 14 if you have certain specific insights in mind from 15 Newman, what are they? 16 DR. THOMPSON: Object to form. 17 A. Well, you know, in this case, I have to 18 say, you know, this protracted resistance by 19 Johnson & Johnson to honoring its legal and 20 corporate ethical obligations to be forthcoming 21 with the public about the risks of talcum powder 22 and the uncertainties in assessing those risks 23 was, you know, confirmed and made worse for me by 24 what I read in the Newman report. In particular, 25 the Newman report talks about Johnson & Johnson's</p>

<p style="text-align: right;">Page 42</p> <p>1 belief as a corporate matter that perfect trust in 2 the maternal child bond transferred to Johnson & 3 Johnson as a corporate entity was essential to how 4 the corporation thought about itself and its 5 long-term business product -- prospects. Excuse 6 me. And I have to say, I found a deep and 7 disturbing irony in the fact that Johnson & 8 Johnson's communications, conduct that was 9 intended to preserve that relationship of trust 10 was accomplished by completely violating that 11 relationship of trust. I was very -- I mean, 12 there were things in the Newman report that I 13 found incredibly disturbing.</p> <p>14 BY MR. EWALD:</p> <p>15 Q. After reading the Newman report -- well, 16 not "after." Have you spoken with Dr. Newman at 17 any point in time?</p> <p>18 A. No.</p> <p>19 Q. After reviewing Dr. Newman's report, did 20 you ask plaintiffs' counsel to review any 21 additional documents?</p> <p>22 A. To review any additional documents?</p> <p>23 Could you give me an example of what you mean by 24 that?</p> <p>25 Q. Sure. What I'm trying to get at is you</p>	<p style="text-align: right;">Page 44</p> <p>1 For example -- we'll get to it -- but 2 you were given testing from Dr. Longo's updated 3 report, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Did you ask plaintiffs' counsel for 6 anything that they're aware of, that gives any 7 critiques of Dr. Longo's testing that's reflected 8 in that report?</p> <p>9 A. In connection with the preparation of my 10 amended report, no.</p> <p>11 Q. No?</p> <p>12 A. The original report included review of 13 many documents that had both similar and less 14 similar findings on many levels.</p> <p>15 Q. Okay. But with respect to the amended 16 report and the testing given to you by Dr. Longo, 17 did you not ask from plaintiffs' counsel any 18 information that is responding to and/or 19 critiquing the opinions in the report that you 20 received, correct?</p> <p>21 A. Correct.</p> <p>22 Q. All right. You also mentioned earlier 23 the interagency working group and their efforts 24 over the past couple of years, right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 talked about some things that you read in 2 Dr. Newman's report that concerned you, Fair?</p> <p>3 A. Fair.</p> <p>4 Q. Did -- at any point in time after 5 reviewing Dr. Newman's report, did you ask 6 plaintiffs' counsel for more information about a 7 particular topic that was raised in Dr. Newman's 8 report?</p> <p>9 A. No.</p> <p>10 Q. Have you reviewed a report from a 11 Dr. David Kessler in this case?</p> <p>12 A. No.</p> <p>13 Q. In preparing your amended report in this 14 case, did you ask plaintiffs' counsel for any 15 information about the defendant's, Johnson & 16 Johnson, position on any particular matter?</p> <p>17 DR. THOMPSON: Object to form.</p> <p>18 A. I'm not exactly sure how to answer that. 19 Could you break that down into categories? I 20 mean, for example, I haven't read any Johnson & 21 Johnson legal motions if you're asking about.</p> <p>22 BY MR. EWALD:</p> <p>23 Q. That's a fair question. And I -- you 24 know, I would leave aside the sort of legal 25 motions.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. And amongst other things in your 2 amended report, you cite to the white paper that 3 was released in 2021, correct?</p> <p>4 A. Correct.</p> <p>5 Q. We will mark as Exhibit 11 the white 6 paper "IWGACP Scientific Opinions On Testing 7 Methods For Asbestos in Cosmetic Products 8 Containing Talc. Interagency Working Group On 9 Asbestos In Consumer Products," dated 10 December 2021. 11 (Exhibit 11 marked.)</p> <p>12 BY MR. EWALD:</p> <p>13 Q. Is this the white paper you're aware of, 14 sir?</p> <p>15 A. (Examined exhibit.) As best I can tell, 16 yes. I don't know if I have a copy in front of 17 me.</p> <p>18 Q. Okay. And do you recall citing to this 19 document in your amended report?</p> <p>20 A. Yes.</p> <p>21 Q. Let's look at what you said there. I 22 believe it is on -- yeah, page 20, paragraph 123. 23 Let me know when you're there.</p> <p>24 A. (Complied.) Yes.</p> <p>25 Q. Okay. And specifically in paragraph 123,</p>

12 (Pages 42 - 45)

<p>1 you discuss the J4-1 method and then go on and 2 state, (as read) "The peculiarity of retaining 3 without reconsideration for nearly half a century 4 the testing method clearly at odds with current 5 science is repeatedly noted in the White Paper 6 issued in late 2021 by the federal government's 7 Interagency Working Group on Asbestos in Consumer 8 Products."</p> <p>9 Did I read that correctly?</p> <p>10 A. You did.</p> <p>11 Q. All right. And so what are you -- what 12 are you getting at with that sentence there in 13 connection with the J4-1 method?</p> <p>14 A. In all my work, I take note of time 15 frames associated with regulatory change, 16 particularly scientific regulatory change, and I 17 always take note of areas where, undoubtedly, 18 science and technology have advanced but 19 regulatory and self-regulatory standards have not, 20 and that seem to be a very strong example for 21 that.</p> <p>22 Q. Okay.</p> <p>23 DR. THOMPSON: And, Doctor, you 24 need to review that document. If there 25 are going to be more questions, you can do</p>	Page 46	<p>1 in preparing the amended report this year and, I 2 guess, late last year -- that there had been 3 legislation. The legislation had included a 4 direct instruction to the FDA to develop a 5 standardized method, and this was part of that 6 regulatory story.</p> <p>7 BY MR. EWALD:</p> <p>8 Q. Do you have any criticisms of the FDA 9 white paper?</p> <p>10 A. I didn't read it with criticisms in mind. 11 I read it for context and direction and reform.</p> <p>12 Q. And beyond the context that you just 13 discussed, do -- does the FDA white paper inform 14 any of your other opinions that you're offering in 15 this case?</p> <p>16 DR. THOMPSON: Object to form.</p> <p>17 A. Certainly. I mean, it informs opinions 18 on levels of scientific risk, of scientific 19 uncertainty regarding the risk, on insufficiency 20 of the industry-developed standards to reflect the 21 underlying risks and materials. And it supported 22 various inferences about Johnson & Johnson's lack 23 of interest in finding out current scientific fact 24 about its products over this long period of time. 25 So it goes quite directly to many of the opinions</p>	Page 48
<p>1 that.</p> <p>2 A. If there --</p> <p>3 BY MR. EWALD:</p> <p>4 Q. Certainly.</p> <p>5 A. -- if you were planning to ask me, you 6 know, to find the specific quotes in a document 7 that I read first a while back and then reread in 8 direct preparation for the report, I, you know, 9 would have to take time to do that.</p> <p>10 Q. Sure. And I may ask more questions about 11 it a little bit later. What I'm trying to figure 12 out right now is just kind of the basics. And so 13 I understand what you just said.</p> <p>14 With respect to the white paper, do 15 you have any opinions as to the testing methods 16 that were recommended by the interagency working 17 group in the December 2021 white paper?</p> <p>18 DR. THOMPSON: Object to form.</p> <p>19 A. My view of the interagency working group 20 white paper was that it was a clear indication 21 that improvements were necessary in testing 22 methods for asbestos and similar substances that 23 could be harm-producing in cosmetic talc. I don't 24 have specific opinions on what they said. I did 25 have the additional knowledge that -- especially</p>	Page 47	<p>1 in the report.</p> <p>2 BY MR. EWALD:</p> <p>3 Q. And the -- that last point you made, 4 the -- going to the Johnson & Johnson's 5 inferences -- I'm sorry. I don't want to put 6 words in your mouth.</p> <p>7 The last part you talked about with 8 Johnson & Johnson and how it impacted inferences 9 that -- about Johnson & Johnson's testing 10 approach. Can you describe what you were -- are 11 referring to?</p> <p>12 A. Again, this is, you know, qualitative, 13 not quantitative. But my core expertise in 14 legislation regulation and its development and 15 change in the associated obligations, it matters 16 to me when I see a -- an agency that is newly 17 invigorated, whether it's by an FDA finding of 18 asbestos in a Johnson & Johnson talcum powder 19 sample by congressional hearings, recognizing that 20 the self-regulatory models of cosmetic regulation 21 were not sufficiently enforced in order for the 22 modern risks of the globalized, industrialized 23 cosmetic sector to be properly safe. Yes, all of 24 this goes to that, but it goes in a qualitative 25 fashion.</p>	Page 49

<p style="text-align: right;">Page 50</p> <p>1 Q. And then, specifically, you were talking 2 about Johnson & Johnson's, I guess, lack of, in 3 your mind, of dedication to current testing 4 technologies. Is that a fair understanding of 5 what you're saying?</p> <p>6 DR. THOMPSON: Object to form.</p> <p>7 A. Not exactly.</p> <p>8 BY MR. EWALD:</p> <p>9 Q. Okay.</p> <p>10 A. What I'm concerned with in my expert report is whether Johnson & Johnson has complied with its self-regulatory obligations under federal cosmetics law which I believe it has not. And, particularly, its obligations regarding information, labeling, warning, and other communications, and many of those communications have to do with its assertions of having asbestos-free talcum powder products to which this report goes directly.</p> <p>20 Q. And about to take a break because we've been going about an hour. But I just want to finish off this line of questioning.</p> <p>23 When you say that this white paper goes directly to the asbestos-free talcum powder representations by Johnson & Johnson, what do you</p>	<p style="text-align: right;">Page 52</p> <p>1 longer than that. Okay.</p> <p>2 MR. GOLOMB: Can we -- just before 3 we go off the record. This is Richard 4 Golomb. I'm here for the State court 5 plaintiffs. I apologize for entering 6 late. But I just want to make sure the 7 record's clear. I'm here now. And I 8 reserve the right to make objections based 9 on the coordination order.</p> <p>10 Can we agree that any objections 11 that Ms. Thompson makes applies to the 12 State court as well so my objections will 13 be minimal?</p> <p>14 MR. EWALD: Sure.</p> <p>15 MR. GOLOMB: Thank you.</p> <p>16 MR. EWALD: So I -- and, 17 Dr. Thompson, I didn't hear you. Do you 18 want five or ten?</p> <p>19 DR. THOMPSON: I -- we could 20 probably do five. We'll just come back as 21 soon as we're ready. We'll --</p> <p>22 MR. EWALD: Right. It's -- I think 23 my general experience is that when people 24 say "five," they don't get back -- 25 (Speaking simultaneously.)</p>
<p style="text-align: right;">Page 51</p> <p>1 mean?</p> <p>2 DR. THOMPSON: Objection; form.</p> <p>3 A. I mean, that this is a federal interagency working group doing, as far as I can tell, the most systematic and thoughtful review of the current state of science, in combination with congressional investigations, that led to a regulatory modernization and reform law. And when you put it all together in that way, it's pretty clear to me that Johnson & Johnson took comfort that was not justified in stand- -- testing practices for asbestos that were questionable when adopted but had been in place for so long that they did not keep up with science.</p> <p>15 MR. EWALD: All right. Like I said, we've been going about an hour. I was thinking we'd take, like, a five-minute break. We can take a little bit longer if folks need to grab coffee or anything like that. Just let me know.</p> <p>21 THE COURT REPORTER: Yeah. Just a --</p> <p>23 THE WITNESS: Whatever you like. Whatever you need.</p> <p>25 THE COURT REPORTER: Just a touch</p>	<p style="text-align: right;">Page 53</p> <p>1 DR. THOMPSON: Yeah. Let's say -- let's say no more than ten.</p> <p>3 MR. EWALD: Let's shoot for five but no more than ten. Correct. Thanks.</p> <p>5 DR. THOMPSON: All right. That sounds good.</p> <p>7 THE COURT REPORTER: We're off the record at 10:29.</p> <p>9 (A recess was taken from 10:29 a.m. to 10:36 a.m.)</p> <p>11 THE COURT REPORTER: And we are back on the record at 10:36.</p> <p>13 BY MR. EWALD:</p> <p>14 Q. All right. I want to mark as Exhibit 12 the new report of -- well, the newest report from Dr. Longo. Let me just identify it so that we're all on the same page.</p> <p>18 (Exhibit 12 marked.)</p> <p>19 BY MR. EWALD:</p> <p>20 Q. All right. So I've shared my screen. I have what's identified as the "3rd Supplemental MDL Report. Analysis of Non-Historical J&J's Talcum Powder Consumer Product Containers and J&J Chinese Historical Talc Retain Samples," November 17th 2023. It's marked as Exhibit 12.</p>

<p>1 Is this, Doctor, the Longo report 2 that you were referring to that you received? 3 A. (Examined exhibit.) Yes. This is -- 4 this is the report that I have looked at most 5 recently.</p> <p>6 Q. All right. And I understand that you 7 previously had received a -- an earlier version of 8 an MDL report from Dr. Longo, and you include that 9 in your amended expert report, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And am I correct that you do not cite to 12 this November 17th, 2023, test results in your 13 amended expert report, correct?</p> <p>14 A. I just looked at my amended report, and 15 it's dated November, 15th and this is dated 16 November 17th. This doesn't necessarily mean that 17 it's the days we saw things. But, you know, let's 18 say that -- well, I'm gonna agree with -- I'm 19 gonna agree with you for now, absent 20 more information.</p> <p>21 Q. I wasn't sure if they, you know, 22 successfully created time travel back down at A&M.</p> <p>23 A. (Laughing.)</p> <p>24 Q. All right. So what I'm trying to figure 25 out is -- I asked this a little bit earlier, but</p>	<p>Page 54</p> <p>1 going to be able to pinpoint a specific day in 2 which you received it, I'm trying to get a sense 3 -- is -- you get the Dr. Longo November 2023 4 report around the same time you got the Newman 5 report, or is this something that happened a 6 number of months ago?</p> <p>7 A. I believe it was shortly after I got the 8 Newman report.</p> <p>9 Q. All right. And so we're talking roughly 10 a couple weeks ago approximately?</p> <p>11 A. I don't know.</p> <p>12 Q. All right.</p> <p>13 A. What I can -- what I can say is that the 14 Newman and the Longo reports were interesting and 15 relevant for me in preparing for today.</p> <p>16 Q. All right. So then let's talk a little 17 bit about the report from Dr. Longo that we've 18 marked as Exhibit 12. And this is something, I 19 believe you testified earlier today, that 20 plaintiffs' counsel provided to you, correct?</p> <p>21 A. Correct.</p> <p>22 DR. THOMPSON: And, again, could 23 you put that in Chat or -- he's gonna need 24 to review it if you're gonna ask specific 25 questions -- or if you would like to</p>
<p>Page 55</p> <p>1 approximately when you did receive it -- so let me 2 show you just show you something. The -- if I go 3 back to what we've marked as Exhibit 5, which is 4 the Amended Exhibit B dated March 27th, 2024, and 5 I show on the screen here, word searching, I get 6 one hit which is to the 2019 report.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And then I look at --</p> <p>10 MR. EWALD: I'm starting to get a 11 little feedback somewhere. Maybe Richard?</p> <p>12 MR. GOLOMB: I don't think it's 13 feedback as much as it is skipping, it 14 sounds like.</p> <p>15 MR. EWALD: All right. I think 16 it's feedback. All right. We'll 17 continue.</p> <p>18 BY MR. EWALD:</p> <p>19 Q. Then if we look at the second amended, 20 which we've marked as Exhibit 6, also dated 21 March 27, 2024, we then see that it has both the 22 2019 version of the report and the November 2023.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And so understanding you're not</p>	<p>Page 57</p> <p>1 review it.</p> <p>2 THE WITNESS: Sure.</p> <p>3 DR. THOMPSON: You could have it in 4 front of you. I'm just saying.</p> <p>5 THE WITNESS: Yes.</p> <p>6 MR. EWALD: Okay. It should be in 7 the Chat. While people are pulling that 8 up, I will also put it on the screen.</p> <p>9 THE WITNESS: Thank you. I'm a 10 Windows user, and the computer in front of 11 me is a Mac, so I have very few buttons I 12 can push without worrying.</p> <p>13 (Speaking simultaneously.)</p> <p>14 THE WITNESS: He'll put it on the 15 screen.</p> <p>16 DR. THOMPSON: Yeah, but if you 17 want to look at the whole thing, you'll 18 need it in Chat rather than...</p> <p>19 BY MR. EWALD:</p> <p>20 Q. Yeah. At any point in time, Doctor, 21 yeah, you want to look at something else, you can 22 either direct me -- I will be your page scroller 23 -- or if you want to look on your own with 24 counsel, that's also fine.</p> <p>25 Okay. So have you heard anything</p>

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<p>1 about the November 2023 Longo report before 2 receiving it from counsel?</p> <p>3 A. "Heard anything" is a little vague in the 4 sense that I think I'm not supposed to tell you 5 about conversations. But the easy answer to the 6 question is I heard there was one and nothing 7 more.</p> <p>8 Q. All right. Okay. So you received the 9 report that we've marked as Exhibit 12. How, if 10 at all, does this report from Dr. Longo inform the 11 opinions that you're offering in this case?</p> <p>12 A. It's confirmatory regarding the presence 13 of asbestos in talcum powder samples and 14 containers. My understanding was that this was 15 Dr. Longo's testing of samples that came from 16 Chinese mines rather than domestic U.S. mines. 17 And my understanding, if I recall correctly, is 18 that Johnson & Johnson started sourcing its 19 talcum -- its talc for talcum powder products from 20 China in -- somewhere in the early 2000s, I 21 believe, which makes it overall relevant to the 22 issues of adulteration and violation of legal 23 obligation.</p> <p>24 Q. What is your understanding of the method 25 of testing that Dr. Longo is using in this report?</p>	<p>1 not only Dr. Longo's report, but you would have to 2 go search the list, possibly a deposition or 3 something else and some statement of expertise at 4 the time. Again, you know, what is relevant here 5 is that this is a -- a scientific assessment, and 6 I have no reason to question Dr. Longo's 7 expertise.</p> <p>8 BY MR. EWALD:</p> <p>9 Q. Well, you said that you -- it's not like 10 you said -- well, you indicated relying is not 11 accepting without thought, so what thought did you 12 apply to this, Exhibit 12, in reviewing in 13 connection with your opinions in this case?</p> <p>14 DR. THOMPSON: Object to form; 15 asked and answered.</p> <p>16 A. At this point in my involvement with the 17 subject matter, I have read a number of reports 18 that have to do with different testing methods, 19 assay methods, microscopy, crystallography, 20 various other things. I find them all interesting 21 to read. This seemed to be a sophisticated method 22 brought very recently to bear on a relevant topic, 23 and I rely on it as any expert would rely on other 24 peoples' expertise.</p> <p>25 BY MR. EWALD:</p>
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	<p>1 DR. THOMPSON: Object to form.</p> <p>2 A. I rely on the methods in the report as 3 stated. I don't have detailed recollection of 4 them, and I wouldn't have a way to endorse or 5 critique them.</p> <p>6 BY MR. EWALD:</p> <p>7 Q. So if you don't have a way to endorse or 8 critique the testing methods by Dr. Longo, on what 9 basis are you relying on them for your opinions in 10 this case?</p> <p>11 DR. THOMPSON: Object to form.</p> <p>12 A. I rely on them as reflecting the 13 scientific expertise Dr. Longo brings to this 14 tasks. The same way I would, you know, rely on 15 statements of science in a lot of context from a 16 lot of sources. "Relying" of course does not mean 17 accepting without thought. "Relying" means I 18 found them relevant and scientifically grounded to 19 the extent that I understood them.</p> <p>20 BY MR. EWALD:</p> <p>21 Q. Okay. And so what did you know about 22 Dr. Longo's scientific expertise?</p> <p>23 DR. THOMPSON: Object to form.</p> <p>24 A. I cannot recall in that -- in preparation 25 for the original report, I believe I had copies of</p>

<p style="text-align: right;">Page 62</p> <p>1 DR. THOMPSON: Object to form. And 2 that would encompass old ground that could 3 have been questioned. That was questioned 4 previously.</p> <p>5 BY MR. EWALD:</p> <p>6 Q. Well, I'll go ahead and respond to that 7 before you answer, Doctor.</p> <p>8 MR. EWALD: Previous to this, 9 Dr. Sage had not been relying on any PLM 10 chrysotile testing of Dr. Longo. He'd 11 only been relying on the report as 12 reflected on his prior reliance list which 13 only led to amphibole testing.</p> <p>14 DR. THOMPSON: Your question as --</p> <p>15 BY MR. EWALD:</p> <p>16 Q. So from that side now, Doctor --</p> <p>17 MR. EWALD: Excuse me?</p> <p>18 DR. THOMPSON: Excuse me. Go 19 ahead, finish.</p> <p>20 MR. EWALD: What?</p> <p>21 THE WITNESS: It's a "Go ahead. 22 Please finish."</p> <p>23 DR. THOMPSON: Yeah. Go ahead and 24 finish. I didn't mean to interrupt you.</p> <p>25 MR. EWALD: Oh, I thought I was</p>	<p style="text-align: right;">Page 64</p> <p>1 DR. THOMPSON: Object to form. 2 A. This is the only report, in preparation 3 for revising my report in this deposition on this 4 particular testing, that I have read.</p> <p>5 I have also read various FDA 6 statements and other reports on all of their 7 testing from the 2019 finding of asbestos to the 8 present. I have not focused, other than in this 9 report, on amphibole asbestos versus chrysotile 10 asbestos.</p> <p>11 I also have noted the EPA's recent -- 12 I don't remember if it was a guidance or a 13 regulation -- proposing the complete prohibition 14 of chrysotile asbestos in consumer products and 15 occupational exposure. But I -- again, there 16 would be no reason for me, in preparation for my 17 report, to survey every testing lab. As I said in 18 my first deposition, now that I recall, if you'd 19 like to provide me with something that is contrary 20 to something I state and you would like me to 21 consider that, I would be happy to do so.</p> <p>22 BY MR. EWALD:</p> <p>23 Q. Well, do you -- on that front, do you 24 perceive -- well, let me put it back to your 25 academic career in context.</p>
<p style="text-align: right;">Page 63</p> <p>1 done. I'm done that -- are you referring 2 to -- was that something that was on his 3 list?</p> <p>4 DR. THOMPSON: So I think it's -- 5 the question of whether Dr. Longo's 6 findings of chrysotile have been confirmed 7 implies that that would only be since 8 Dr. Longo's chrysotile findings have been 9 available. So the question would be: 10 Have there been findings of chrysotile 11 from other sources prior to this? And I 12 think that would be off-limits.</p> <p>13 MR. EWALD: Okay. But that's not 14 what I'm asking, and the record will 15 reflect when the first Dr. Longo testing 16 results for chrysotile PLM were made 17 available in litigation which is around 18 2020. But, again, my question is not 19 limited to time. So you shouldn't have a 20 problem with it.</p> <p>21 BY MR. EWALD:</p> <p>22 Q. My question is: Dr. Sage, are you aware 23 of any laboratory -- outside of MAS -- that has 24 ever validated Dr. Longo's PLM findings of 25 chrysotile that are reflected in this report?</p>	<p style="text-align: right;">Page 65</p> <p>1 When you are drafting up an article 2 for peer-reviewed publication, is it your position 3 that you don't need to worry about any potential 4 criticisms unless somebody writes a letter to the 5 editor?</p> <p>6 DR. THOMPSON: Object to form.</p> <p>7 A. I actually spend a lot of time 8 interpreting my own work and anticipating and 9 responding to criticisms of that work. In this 10 instance, the court questioned regarding testing 11 has to do with the presence of asbestos and 12 asbestiform fibers in talc and talcum powder 13 products and whether Johnson & Johnson has 14 complied with its legal and ethical corporate 15 obligations, which I conclude that it has not. I 16 believe that my review of this material, absent 17 something else you would like to show me, is 18 completely consistent with how I would approach 19 this as an academic matter.</p> <p>20 BY MR. EWALD:</p> <p>21 Q. All right. And just to be clear -- and 22 we'll get there. But just to be clear: At no 23 point in time after receiving and reading this 24 report from Dr. Longo from 2023 did you ask 25 plaintiffs' counsel, "Can you give me anything</p>

<p style="text-align: right;">Page 66</p> <p>1 that may be out there that criticizes the testing 2 method of Dr. Longo that is reflected in this 3 report?" 4 A. It's import-- 5 DR. THOMPSON: Object to form. 6 A. -- it's important to remember here that 7 Johnson & Johnson's legal obligations do not 8 require a certainty of anything. They require 9 information that is suggestive of risk, and 10 certainly, the presence of asbestos and any sample 11 at any time is suggestive of risk. The 12 uncertainty surrounding that risk is also the 13 subjective legal obligation of disclosure by 14 Johnson & Johnson. So I stand by my statement. 15 Everything I read here was sufficient to ground my 16 opinions. I'm happy to look at contrary 17 information, should you like to provide it. 18 BY MR. EWALD: 19 Q. And we'll get there. But -- 20 DR. THOMPSON: And, John, the 2019 21 FDA findings and Longo's first report were 22 covered in the previous 2021 report in 23 deposition, so I don't think we can really 24 go into anything that's ever happened in 25 the whole history of asbestos testing</p>	<p style="text-align: right;">Page 68</p> <p>1 DR. THOMPSON: Wait. Okay. 2 There's no question on -- there's no 3 question up. 4 MR. EWALD: I agree with you, 5 Dr. Thompson, and I think the only 6 disagreement we have on that is whether 7 the PLM chrysotile testing that is 8 reflected in this report, which is a 9 compilation of a number of expert reports 10 from Dr. Longo, had previously been 11 available before the date of this report, 12 November 2023. And I am confident that 13 that is the case. I understand that you 14 may not be so confident. And so that's 15 why my question does not have a particular 16 date. 17 But, yes, you are correct. I'm 18 asking about any validation by any testing 19 lab in the world of the findings of 20 chrysotile by using its PLM testing in 21 Dr. Longo -- in this report. That's what 22 I'm asking. 23 DR. THOMPSON: And Dr. Sage has 24 already testified that he is not offering 25 any -- any critique or opinions as to</p>
<p style="text-align: right;">Page 67</p> <p>1 today. 2 MR. EWALD: I don't believe I 3 mentioned anything about Longo's 2019 4 report or the FDA findings. That's what 5 you're talking about. 6 I'm talking about specifically the 7 PLM chrysotile findings that are reflected 8 in the report that Dr. Sage is relying on 9 for the very first time. I'm asking 10 questions about that, and I'm going to 11 continue asking questions about that. 12 BY MR. EWALD: 13 Q. Okay. So, Doctor -- 14 DR. THOMPSON: But so -- but wait a 15 minute. You're saying the validation of a 16 chrysotile finding by Dr. Longo. If 17 you're talking about a validation of 18 Dr. Longo's findings, it would just be 19 since those findings. If you're talking 20 about others finding chrysotile, then that 21 has been covered previously in 2021 in 22 Dr. Sage's deposition report. 23 MR. EWALD: I agree with you. 24 THE WITNESS: Could I ask, John, if 25 it's --</p>	<p style="text-align: right;">Page 69</p> <p>1 Dr. Longo's methods of testing. 2 MR. EWALD: Oh, I know, but he has 3 also said -- 4 DR. THOMPSON: But you -- 5 (Speaking simultaneously.) 6 MR. EWALD: And, really, as far as 7 the speaking objections and because we 8 are -- you know, if you'd like to proceed 9 with my examination, there's been a lot of 10 colloquy with counsel and a lot of 11 speaking objections on your end. And I 12 appreciate you may not understand the 13 intricacies and details of this, but I 14 would like to ask the questions of 15 Dr. Sage and not of Dr. Thompson, okay? 16 DR. THOMPSON: Okay. Well, if 17 you're talking about the methods, it's one 18 thing. If you're talking about the 19 findings of chrysotile, it's another 20 thing, and -- and so we'll see what the 21 question is and -- 22 MR. EWALD: Yes, we will. 23 DR. THOMPSON: -- and what his 24 answer is. 25 MR. EWALD: Okay.</p>

1 BY MR. EWALD: 2 Q. So, Doctor, before all that, we were 3 talking about -- well, actually, that's always a 4 problem with all the wordy colloquies. I lose my 5 train of thought. Just give me one moment. 6 A. Sure. 7 Q. Oh, all right. You were talking about 8 self-regulatory obligations, and I sense that you 9 were suggesting that there is some reporting 10 obligation from Johnson & Johnson on the findings 11 from Dr. Longo here, regardless of whether or not 12 they are reliable, scientific findings. Is that 13 your testimony? 14 DR. THOMPSON: Object to form. 15 A. That is not my testimony. 16 BY MR. EWALD: 17 Q. What is your testimony? 18 A. What is my testimony on what point? I'd 19 be happy to tell you, if it's helpful, what I, 20 with respect to my report, thought I got out of 21 the Longo report. But the things that I don't 22 talk about are just -- don't have any particular 23 negative conclusion to them. They're simply 24 things that did not strike me as important to my 25 report from this material.	Page 70 1 Q. Okay. So tell me what you want to say 2 about that. 3 A. As I said when we first mentioned this 4 Longo report, my understanding was that this 5 report was Chinese-sourced talc as opposed to, I 6 believe, Vermont-sourced talc that it preceded in 7 Johnson & Johnson's business practices. 8 Q. (Scrolling.) 9 A. All right. Thank you. 10 I see Vermont and Chinese on the -- 11 on the screen. And given that there now is a 12 roughly 20 year history of Chinese-sourced talc, 13 it seemed relevant to me to know what an expert 14 laboratory detected in terms of asbestos. My 15 understanding is that the Vermont-sourced talc had 16 not been tested -- at least by this lab -- for 17 chrysotile serpentine asbestos. And so, yes, that 18 is, you know, an interesting finding for me. It 19 is not a dispositive finding in some way, which a 20 lot of your questions seem to be kind of centered 21 around. That was interesting to me. 22 More interesting to me was that the 23 overall prevalence, in terms of percentage of 24 samples that had some form of detectable asbestos, 25 was at least as high in the Chinese sourced talc
Page 71 1 Q. Okay. I'm going to get to that. 2 But I'm trying to get a sense of you 3 talked about, in the prior answer, things like 4 suggestion of risk and a lack of certainty doesn't 5 really mean -- a lack of ambiguity does not free 6 the cosmetic company from reporting the adverse 7 event, fair? 8 DR. THOMPSON: Object to form. 9 A. As a general matter, fair. 10 BY MR. EWALD: 11 Q. Okay. And so I'm trying to get -- from 12 your perspective, you see this expert report from 13 Dr. Longo, and it reports chrysotile findings 14 using PLM. And is this something that need to, in 15 your mind, be reported out immediately as a 16 finding of asbestos in Johnson & Johnson talc? 17 DR. THOMPSON: Object to form. 18 A. I don't know what the basis would be for 19 the reporting out. I don't -- I'm really not sure 20 what the question is. Again, I'm happy to tell 21 you in what way this report informs my testimony 22 today, and what it does is give me continued and 23 greater confidence in the adulteration of talcum 24 powder products with asbestos. 25 BY MR. EWALD:	Page 73 1 as it was in the Vermont sourced talc, and it 2 seemed actually to be significantly higher. I 3 believe the Vermont source talc had something like 4 68 percent of samples tested, and this one had 5 90 percent of samples tested. 6 And I also drew the inference that 7 asbestosiform fibrous talc, not mineral asbestos, 8 was prevalent in all of the samples and, you know, 9 was ubiquitous and, therefore, didn't even bear 10 reporting. And those were the things that were 11 relevant to me, and it really had to do with the 12 shift in Johnson & Johnson's business practices 13 from Vermont to China sourcing and whether that 14 would influence the risk and uncertainty around 15 adulteration of talcum powder products. That's 16 it. 17 Q. Okay. And you mentioned the difference 18 in percentage of positives from 68 percent, which 19 I believe that's when you -- that's what you 20 include in your report for Italy and Vermont, 21 right? 22 A. It's what's in my re- -- it's what's in 23 my report, and it was -- you know, again, no 24 number above zero would be reassuring here. So 25 these are sort of significant findings that don't

<p style="text-align: right;">Page 74</p> <p>1 seem to me to be sample-dependent.</p> <p>2 Q. And --</p> <p>3 A. And I just wanted to make sure that this</p> <p>4 later report with Chinese-sourced talc was also</p> <p>5 insignificant nonsample dependent sort of ballpark</p> <p>6 for my purposes.</p> <p>7 Q. And when you see -- for Chinese talc,</p> <p>8 according to this MAS PLM chrysotile analysis,</p> <p>9 93 percent are positive. Does the delta between</p> <p>10 the 93 percent and the 68 percent of the prior</p> <p>11 findings have any impact whatsoever on your</p> <p>12 assessment of the reliability of Dr. Longo's PLM</p> <p>13 chrysotile analysis?</p> <p>14 DR. THOMPSON: Object to form.</p> <p>15 A. I don't think you're accurately reading</p> <p>16 the statement here, at least here as you have it</p> <p>17 on the screen. 40 of the 43 talcum powder samples</p> <p>18 from -- with Chinese-sourced talc were positive</p> <p>19 for either amphibole or chrysotile. It doesn't</p> <p>20 say "for chrysotile" which is what your question</p> <p>21 said.</p> <p>22 With that modification to your</p> <p>23 question, 68 and 93 are both concerning numbers,</p> <p>24 and the difference between them does not affect my</p> <p>25 opinion.</p>	<p style="text-align: right;">Page 76</p> <p>1 A. This -- this is --</p> <p>2 MR. EWALD: Thank you for the</p> <p>3 speaking. We are still in federal court.</p> <p>4 BY MR. EWALD:</p> <p>5 Q. Dr. Sage, what's your answer?</p> <p>6 A. This is the statement Dr. Longo puts in</p> <p>7 the report. I have, you know, the scientific</p> <p>8 background to understand something that is, I</p> <p>9 believe, referring to polarized light microscopy</p> <p>10 and something -- and I'm not -- I can't right now</p> <p>11 remember what HLS stands for. But, you know,</p> <p>12 there are liquid sampling analyses and things like</p> <p>13 that I don't remember.</p> <p>14 What I do from this paragraph, when I</p> <p>15 read it and I do recall reading it, was an</p> <p>16 impression that it was saying that this was a</p> <p>17 newly developed method by an academic reputable</p> <p>18 institution that, to my knowledge, is not</p> <p>19 connected to this litigation. That is what I drew</p> <p>20 from this paragraph.</p> <p>21 BY MR. EWALD:</p> <p>22 Q. Okay. Do you have an understanding as to</p> <p>23 whether or not the Colorado School of Mines method</p> <p>24 has ever been published, peer-reviewed?</p> <p>25 DR. THOMPSON: Object to form.</p>
<p style="text-align: right;">Page 75</p> <p>1 BY MR. EWALD:</p> <p>2 Q. Oh, yeah.</p> <p>3 All right. So scrolling up a little</p> <p>4 bit on the report from Dr. Longo, here we have --</p> <p>5 on page 2, you see the second full paragraph.</p> <p>6 "Also, when the last MDL report was issued, MAS</p> <p>7 was not analyzing cosmetic talc samples for</p> <p>8 chrysotile using the heavy liquid separation</p> <p>9 sample preparation method. After reviewing the</p> <p>10 Colorado School of Mines (CSM) protocol for the</p> <p>11 analysis of chrysotile using a HLS sample</p> <p>12 preparation method with PLM analysis, MAS worked</p> <p>13 on developing a more efficient protocol for the</p> <p>14 detection of chrysotile in cosmetic talc samples.</p> <p>15 The Colorado School of Mines developed this</p> <p>16 method."</p> <p>17 Did I read that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. And is that your understanding of the</p> <p>20 test method that Dr. Longo was using in this</p> <p>21 report?</p> <p>22 DR. THOMPSON: Objection. He's</p> <p>23 already testified that he does not have</p> <p>24 opinions as to Dr. Longo's testing</p> <p>25 methodology.</p>	<p style="text-align: right;">Page 77</p> <p>1 A. I have no knowledge one way or the other.</p> <p>2 BY MR. EWALD:</p> <p>3 Q. Okay. Does that matter to your</p> <p>4 assessment as to whether or not it is a reliable</p> <p>5 method?</p> <p>6 DR. THOMPSON: Object to form.</p> <p>7 A. I'm sorry. If you tell me that the</p> <p>8 Colorado School of Mines has developed a testing</p> <p>9 method in its core sweet spot of geological</p> <p>10 science, I am inclined to believe it. I can't say</p> <p>11 more than that.</p> <p>12 BY MR. EWALD:</p> <p>13 Q. Okay. Well, if we go down a little</p> <p>14 further in the report, it talks about the Colorado</p> <p>15 School of Mines with HLS, heavy liquid separation,</p> <p>16 sample preparation of cosmetic talc. And</p> <p>17 specifically talks about documents from the 1970s.</p> <p>18 Here you see, "The sample preparation</p> <p>19 part of the MAS chrysotile analysis is based on</p> <p>20 the work done by the CSMP in the early 1970's for</p> <p>21 the detection specifically for possible chrysotile</p> <p>22 and amphibole asbestos in J&J sourced Vermont</p> <p>23 talcum powder."</p> <p>24 Do you see that?</p> <p>25 A. I do.</p>

<p style="text-align: right;">Page 78</p> <p>1 DR. THOMPSON: And, you know, I'm 2 going to object to this being way beyond 3 the scope of a amended report submitted in 4 September of 2023.</p> <p>5 MR. EWALD: Excuse me? This is 6 a -- this is a testing report that you 7 guys showed him a couple weeks ago, that's 8 not even a report -- let me finish my 9 answer, please.</p> <p>10 (Speaking simultaneously.)</p> <p>11 MR. EWALD: Do not interrupt me. 12 I'll let you give as long a speech as you 13 want to. I'm not done.</p> <p>14 This is reflecting a report that 15 was in November 2023, that you provided 16 your expert, Mr. Sage -- Dr. Sage. 17 Apologies.</p> <p>18 THE WITNESS: That's okay.</p> <p>19 MR. EWALD: Two weeks ago --</p> <p>20 (Speaking simultaneously.)</p> <p>21 THE WITNESS: When I taught -- when 22 I taught at Colombia Law School, "Mr." was 23 the honorific that was this lack of 24 respect.</p> <p>25 MR. EWALD: Right.</p>	<p style="text-align: right;">Page 80</p> <p>1 Just let him answer the question.</p> <p>2 MR. EWALD: No. I will not let him 3 answer the question when his -- when your 4 counsel -- your co-counsel keeps on 5 interrupting me. So I'm more than happy 6 to proceed, but I want to make clear about 7 what plaintiffs' position is in this 8 matter.</p> <p>9 Is it plaintiffs' position that</p> <p>10 Mr. Hegarty, who took Day 1 of Dr. Sayta's 11 deposition in 2021, should have questioned 12 Dr. Sage about Dr. Longo's chrysotile 13 opinions which were not included in the 14 only report that Dr. -- that Dr. Longo and 15 Dr. Sage received? Is that plaintiffs' 16 position?</p> <p>17 MR. GOLOMB: We're not here to 18 answer questions. Dr. Sage is here to 19 answer questions. Ask your question, and 20 we'll make an objection when appropriate, 21 and he can answer.</p> <p>22 MR. EWALD: Okay. I will be more 23 than happy to proceed when you guys -- if 24 you guys want to just make your objections 25 to "form" or "asked and answered" and not</p>
<p style="text-align: right;">Page 79</p> <p>1 THE WITNESS: I didn't know what to 2 make with even "professor."</p> <p>3 MR. EWALD: Nonetheless, something 4 that is not reflected in his report and 5 I'm asking him questions about, so how 6 could it possibly be something that is 7 beyond the scope of a report that's 8 reflected in September 2023?</p> <p>9 DR. THOMPSON: Because this 10 information was in previous Longo reports 11 and available at Dr. Sage's previous 12 deposition and could have been asked about 13 then.</p> <p>14 MR. EWALD: All right.</p> <p>15 DR. THOMPSON: To -- with that 16 caveat and his statement that he's not 17 commenting at all on any methodology or 18 giving opinions, we can proceed, I 19 suppose.</p> <p>20 MR. EWALD: Okay. And I just want 21 to be clear. Is it your position that 22 I --</p> <p>23 (Speaking simultaneously.)</p> <p>24 MR. GOLOMB: Wait. Wait. Is there 25 a question on the table? Let him answer.</p>	<p style="text-align: right;">Page 81</p> <p>1 always give these long speaking 2 objections. If you're going to continue 3 with speaking objections, I'm going to 4 continue to say why your speaking 5 objections do not have any merit. So if 6 we have an agreement, no speaking 7 objections, I'll agree not to explain why 8 they're wrong.</p> <p>9 MR. GOLOMB: Just ask your next 10 question.</p> <p>11 DR. THOMPSON: Just ask the 12 question. But if we're talking about a 13 1973 document, and I -- we can certainly 14 go back and pull that document and see 15 whether it was covered in all sorts of -- 16 whether it's Hopkins or other J&J expert 17 or 30(b)(6) witnesses, et cetera. I don't 18 think it's worth taking the time to do 19 that. So he can answer, but I do -- would 20 still take the position that -- that a 21 1973 document about asbestos is in the 22 scope of what this deposition should be 23 about today.</p> <p>24 MR. EWALD: Okay. So -- and I 25 genuinely do not remember, Madam Court</p>

<p>1 Reporter, what the pending question was, 2 if there was one. Would you mind trying 3 to find it after all those pages of 4 colloquy?</p> <p>5 THE COURT REPORTER: Yes, sir. It 6 will take me a minute.</p> <p>7 MR. EWALD: No problem.</p> <p>8 THE COURT REPORTER: The last 9 pending question I have has to do with 10 reading the section in the Colorado School 11 of Mines with the HSL, heavy liquid 12 separation. You read that paragraph. And 13 then you said, "Do you see that?" And he 14 said, "I do." And then the objections 15 started. Do you want me to --</p> <p>16 MR. EWALD: Well, thanks.</p> <p>17 THE COURT REPORTER: Okay. Thank 18 you.</p> <p>19 BY MR. EWALD:</p> <p>20 Q. So my only follow-up question on that, 21 Doctor, is you had mentioned that you thought it 22 was a recent Colorado School of Mines method. 23 This, at least, is -- saying 1970s. Do you have 24 an understanding, one way or another, which is 25 right?</p>	Page 82	<p>1 Q. Is that something you looked at in 2 connection with your amended report?</p> <p>3 A. No.</p> <p>4 Q. Okay. Do you recall whether or not 5 Dr. Longo presented any of his PLM chrysotile 6 heavy liquid separation findings at that 7 February 4th, 2020, meeting?</p> <p>8 DR. THOMPSON: Object to form.</p> <p>9 A. I don't recall.</p> <p>10 BY MR. EWALD:</p> <p>11 Q. Okay.</p> <p>12 A. I do remember going through that public 13 meeting material at the time, but I don't remember 14 any of the --</p> <p>15 Q. Sure. All right. And we'll mark as 16 Exhibit 13.</p> <p>17 (Exhibit 13 marked.)</p> <p>18 BY MR. EWALD:</p> <p>19 Q. Here we have the February 4th, 2020, 20 transcript of the meeting we were just referring 21 to, and I just have a couple of questions on this 22 one, Doctor.</p> <p>23 First of all --</p> <p>24 DR. THOMPSON: If you can put that 25 in Chat also --</p>	Page 84
<p>1 A. All right. That's what I thought you 2 were -- you're getting at with the question.</p> <p>3 So if the thing is my prior answer is 4 that I read the introduction to suggest that this 5 was a recent method, you've now shown me a part of 6 the report that says at least part of it is not a 7 recent method. But the difference between is not 8 something that I considered earlier, and I cannot 9 imagine that it would change the way in which this 10 report bears on my opinion. Painful as that was.</p> <p>11 Q. Okay. So you, in your report, mention 12 the -- let's pull up here -- okay. I'm going back 13 to your Materials Considered list, Doctor. This 14 would be, again, the third amended, Exhibit 7. 15 And amongst the materials that you see here, you 16 have the "U.S. Food and Drug Administration Public 17 Meeting: Testing Methods for Asbestos in Talc and 18 Cosmetic Products Containing Talc," February 4th 19 of 2020.</p> <p>20 Do you see that, Doctor?</p> <p>21 A. Yes.</p> <p>22 Q. And that's something -- a testimony, 23 something that you considered in preparing your 24 earlier report, correct?</p> <p>25 A. Yes.</p>	Page 83	<p>1 MR. EWALD: Sure.</p> <p>2 DR. THOMPSON: -- so that he can -- 3 we can see the entire document.</p> <p>4 MR. EWALD: No problem. Just a 5 moment because it's a long document.</p> <p>6 THE WITNESS: No worries.</p> <p>7 BY MR. EWALD:</p> <p>8 Q. And while we're doing that, actually, as 9 a general matter, Doctor, do you have an 10 understanding as to what the purpose of that 11 February 4th, 2020, meeting with the FDA was?</p> <p>12 A. I cannot recall right now what that 13 purpose was.</p> <p>14 MR. EWALD: Okay. I'm getting an 15 error message when I try to attach it.</p> <p>16 THE WITNESS: I'm just going to 17 stand up for a moment.</p> <p>18 BY MR. EWALD:</p> <p>19 Q. Let's go ahead now. It's a document --</p> <p>20 MR. EWALD: Why don't we just take 21 a five-minute break? And then we can get 22 it sorted out by then.</p> <p>23 DR. THOMPSON: Excuse me. Can you 24 give me the Bates number or the name of 25 that document you're gonna put up?</p>	Page 85

<p>1 MR. EWALD: It's -- there's not a 2 Bates number. It's the direct link from 3 his Materials Considered list -- 4 DR. THOMPSON: Okay. 5 MR. EWALD: -- with the FDA 6 website. 7 DR. THOMPSON: FDA website? 8 MR. EWALD: Yep. 9 THE COURT REPORTER: All right. 10 We're off the record at 11:21 here. 11 (A recess was taken from 11:21 a.m. to 12 11:26 a.m.) 13 THE COURT REPORTER: We're back on 14 the record at 11:26. 15 BY MR. EWALD: 16 Q. Okay. Thanks for the break. I was able 17 to sort out the current issue. I uploaded in the 18 Chat both the February 4th, 2020, transcript of 19 the FDA meeting, also the -- just so you have 20 it -- the FDA interagency white paper, 21 December 2021. 22 The -- going back do Exhibit 13 which 23 is the transcript. 24 A. You want me to click on these? Or will 25 you show them to me?</p>	Page 86	<p>1 MR. EWALD: And I'm relating it to 2 something they concluded in the Zoom 3 deposition -- in the new report. 4 BY MR. EWALD: 5 Q. Go ahead. 6 A. I reviewed this in connection with the 7 first report. I did not look at it again in 8 connection with the second. 9 BY MR. EWALD: 10 Q. All right. And as you sit here today, 11 you have no reliable understanding as to the 12 purpose of this February 4th, 2020, meeting? 13 DR. THOMPSON: Object to form. 14 A. You just read me the statement in 15 convening the meeting by the convenor. I have no 16 reason to doubt that. 17 BY MR. EWALD: 18 Q. Okay. 19 A. This meeting is, as you know, one step in 20 a long chain that, among other things, resulted in 21 a direct congressional instruction to FDA to 22 develop a standardized testing method. 23 Q. Understood. Okay. So -- and, of course, 24 when I try to search it, it's crashing my Adobe. 25 Hold on one second.</p>	Page 88
<p>1 Q. I'm going to show it, and you're welcome 2 to spend as much time as you want looking at it. 3 I'm just going to -- I'm really going to ask you 4 two questions about two parts. That doesn't mean 5 that you can -- can't look at the other parts. 6 But I first want to direct your 7 attention to page 3, and we see comments from 8 Ms. Kari Barrett, and she says, "The purpose of 9 today's public meeting is to discuss and obtain 10 scientific information on topics related to 11 testing methods for asbestos in talc and cosmetic 12 products containing talc. We expect this meeting 13 to be an important step in our continued efforts 14 to gather information on this topic, and we thank 15 all thank of you in the room and online for 16 joining us today." 17 First, did I read that correctly? 18 A. (Examined exhibit.) Yes. 19 Q. All right. And is that generally 20 consistent with your understanding of what the 21 February 4th, 2020, meeting from the FDA was 22 geared towards? 23 DR. THOMPSON: Object to form. And 24 this was included in his original report 25 in deposition.</p>	Page 87	<p>1 All right. Now, Doctor, we're on 2 page 176 of the transcript, and do you see that 3 Ms. Kari Barrett, the convenor, as you said, is 4 introducing William Longo? 5 Do you see that, sir? 6 A. I do. 7 Q. And he starts off his comments, after 8 introducing himself, with the statement, "I would 9 like to comment today on the research that we have 10 done using heavy liquid separation for both 11 amphibole asbestos, as well as our chrysotile 12 asbestos that we have recently cracked the code, 13 so to speak, where we can now do both." 14 Did I read that correctly? 15 A. Yes. 16 Q. And with respect to his representation in 17 February 2020 to the FDA in this public forum that 18 they have "cracked the code" on heavy liquid 19 separation for chrysotile asbestos, in your review 20 of the December 2021 white paper from the 21 interagency working group, did they adopt the 22 heavy liquid separation chrysotile method 23 discussed by Dr. Longo? 24 DR. THOMPSON: Object to form. 25 A. I do not know. I do not recall. Again,</p>	Page 89

<p style="text-align: right;">Page 90</p> <p>1 you're pointing out steps in a process that led 2 from acceptance in the 1970s of an industry 3 proposed testing approach to a congressional 4 mandate in 2022 for FDA to finalize, by federal 5 regulation, a testing approach. I am shocked it 6 took that long to deal with something that 7 everyone understands causes cancer. But it did. 8 I am not quite understanding where 9 your questions are directed in terms of a 10 particular FDA meeting and interagency working 11 group. I will repeat, I have had no direct -- 12 I've had no contact of any sort with the officials 13 participating in this or personal contact with the 14 people testifying in this. 15 BY MR. EWALD: 16 Q. Okay. And I wasn't suggesting that you 17 had. 18 My question is: You've read -- and 19 you cite in your most recent report the 20 December 2021 interagency white paper, correct? 21 A. Yes. 22 Q. Okay. And my question is: In that 23 report where there are recommendations made, does 24 the interagency working group recommend the use of 25 heavy liquid separation for chrysotile asbestos,</p>	<p style="text-align: right;">Page 92</p> <p>1 A. Yes. 2 Q. And looking through these specific 3 opinions that are recommended by IWGACP, do you 4 see any reference to a adoption of a chrysotile 5 heavy liquid separation method? 6 A. Would you like to -- 7 DR. THOMPSON: Object to form. 8 A. Would you like to go through them one by 9 one as I read them? I have no other basis for 10 forming an opinion as to what's in the document 11 beyond using the document. 12 BY MR. EWALD: 13 Q. Sure. 14 A. Okay. So -- actually, would you scroll 15 up a little bit so I can see how they frame this 16 list -- 17 Q. (Complied.) Sure. 18 (Speaking simultaneously.) 19 DR. THOMPSON: And if you want to 20 go off the record and look at the entire 21 document, you're permitted to do that. 22 A. "opinions and related advice." Okay. 23 Now I see what they are trying to do. (Examined 24 exhibit.) Could there be something beyond 25 Number 5?</p>
<p style="text-align: right;">Page 91</p> <p>1 based on Dr. Longo's supposedly "crack the code" 2 method that he described in February 2020? 3 DR. THOMPSON: And object to form. 4 And if you're talking about the 5 interagency working group, we need to have 6 that document up. 7 MR. EWALD: We'll get there. 8 A. In answering your question, I do not 9 recall, but I imagine you will show me. 10 BY MR. EWALD: 11 Q. All right. So now I put the interagency 12 working group in the Box where it had previously 13 been marked as Exhibit 11. I'll also put it up on 14 the screen here. 15 Okay. So here we have the white 16 paper cited in your amended report and goes down 17 to, "Through its deliberations" -- we're on the 18 page, for the record, 5 -- "the IWGACP developed 19 the following scientific opinions and related 20 advice to help ensure reliable detection and 21 comprehensive reporting of asbestos and other 22 amphibole particles when testing cosmetic products 23 containing talc and talc intended for use in 24 cosmetics." 25 Did I read that correctly?</p>	<p style="text-align: right;">Page 93</p> <p>1 BY MR. EWALD: 2 Q. There is. 3 A. Thank you for showing it to me. 4 Q. I wasn't sure you were done. Just tell 5 me where to scroll. I'll scroll. 6 A. Okay. (Examined exhibit.) I do not see 7 any reference in this list of eight items to heavy 8 liquid separation. 9 Q. Okay. I do want to talk a little bit 10 about -- did you recommend -- you do recommend 11 here, am I correct, "Use both PLM and TEM methods 12 to identify/report, at minimum, the presence 13 asbestos, other amphibole minerals, and talc 14 particles exhibiting non-platy morphology," 15 correct? 16 A. Yes. 17 Q. And this is something that you talked 18 about in your amended report. If you go a little 19 bit up, it's talking about the J4-1 method, and 20 that's something that is discussed, correct? 21 A. The J4-1 method is discussed. 22 Q. All right. And this white paper talks 23 about how -- with a J4-1 method relies on 24 "screening techniques, [X-ray diffraction (XRD) or 25 infrared (IR) spectroscopy] and requires optical</p>

24 (Pages 90 - 93)

<p>1 microscopy [i.e. polarized light microscopy] only 2 if the screening test is positive." 3 That's what it reads, correct? 4 A. (Examined exhibit.) Yes. 5 Q. And it goes on to say that, "These two 6 published protocols have long-recognized 7 shortcomings and specificity and sensitivity to 8 detect the presence of asbestos and similar 9 mineral particles that may pose a health concern 10 (see Appendix F)." 11 And it goes on to say, "For example, 12 recent testing in cosmetics by a private 13 laboratory under contract with FDA using 14 transmission electron microscopy (TEM) revealed 15 the presence of asbestos in samples that had 16 negative findings for the same products using PLM, 17 highlighting the shortcomings of optical 18 microscopy methods," correct? 19 A. It says that. 20 Q. And it goes on to say, "Thus, the 21 Interagency Working Group on Asbestos in Consumer 22 Products (IWGACP) advises that electron 23 microscopy-based methods are preferred where the 24 objective is to determine if asbestos is present," 25 correct?</p>	Page 94	<p>1 paragraph that he's discussing this white 2 paper. And I would appreciate you don't 3 interrupt the witness mid answer. 4 DR. THOMPSON: I apologize -- I 5 apologize for interrupting the witness. I 6 didn't realize I was doing it. 7 BY MR. EWALD: 8 Q. Doctor -- 9 DR. THOMPSON: You can go ahead and 10 answer. My fault. 11 A. What my expert impressions are -- my 12 expert opinions are -- have to do with regulatory 13 stasis. Has to do with a self-regulatory regime 14 that was reliant on an industry process, an 15 industry process that has been called into 16 question in many ways. 17 And then for whatever reasons, 18 whether they be budgetary concerns, issues of 19 institutional capacity at the time, or 20 interventions by the regulated parties, there is 21 essentially no progress in asbestos testing 22 methods for talc during a long period when 23 asbestos is known to be a carcinogen-including, 24 with respect to ovarian cancer. 25 And then breaking out from that</p>	Page 96
<p>1 A. I'm sorry. The "determine is best," I'm 2 not seeing it as a -- 3 (Speaking simultaneously.) 4 Q. "determine if" -- 5 A. -- "is present." I'm sorry. 6 Q. "asbestos." I was talking too fast. 7 A. I'm sorry. 8 Q. Yeah, that's not your fault. 9 A. That's -- 10 Q. That's what it reads, right? 11 A. That's -- yes. That's what it says. 12 Q. All right. And -- and you talk about 13 this in your amended report, right? That the J4-1 14 method, the white paper states that it is 15 inadequate and that it should use TEM in addition 16 to PLM, correct? 17 A. I don't believe I say anything that 18 specific about testing methods in my report. 19 Q. Okay. 20 A. I do -- what I talk about -- 21 DR. THOMPSON: Did -- again, we're 22 using his 2021 report. I just want to put 23 that on the record. 24 MR. EWALD: I'm talking about his 25 amended 2023 report which is the same</p>	Page 95	<p>1 recent stasis -- from that stasis in recent years, 2 through a combination of things, which include the 3 convening of the working group, the working group 4 report, subsequent actions by other regulatory 5 agencies, the cosmetics regulation Modernization 6 Act, the congressional directive. 7 And then we shall see what comes out 8 of that directive, if and when -- I will say, when 9 FDA actually publishes a proposed testing method. 10 At which point, I would consider that regulation, 11 though not incontestable -- and I am sure that 12 your client as -- well as other parties -- will 13 make plenty of public comments on whatever is 14 proposed. 15 But at that point, I think we can 16 reengage this methodological question. I don't 17 see what I can add to your -- your store of 18 knowledge from this text that the -- you know, in 19 the way it's being presented to me. 20 BY MR. EWALD: 21 Q. Well, and this is -- I'm not looking for 22 you to add to my store of knowledge. I'm looking 23 to have an understanding of what you understand 24 and the basis for your expert opinions in this 25 case.</p>	Page 97

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 And so you're citing to the white 2 paper, and I want to make sure that we're on the 3 same page, that what the white paper recommends is 4 that you don't just use PLM, you also use TEM, 5 correct?</p> <p>6 DR. THOMPSON: Object to form.</p> <p>7 A. That is what you have shown me. That is 8 a level of detail. I do know what a transmission 9 as opposed to a scanning electron microscope can 10 do. I know a little bit about, you know, geologic 11 crystal formation and plate structures for various 12 minerals -- not a lot -- might. I know much more 13 about the biomedical side of these things.</p> <p>14 But I'm here as an expert in 15 regulation, regulatory obligation, particularly 16 information in self-regulatory methods. We can 17 talk about this. I'm very happy to. I certainly 18 will renew the offer -- if there is something that 19 you think refutes my opinions regarding regulatory 20 stasis and emergence from regulatory stasis, I am 21 absolutely willing to look at it.</p> <p>22 BY MR. EWALD:</p> <p>23 Q. And we're getting there.</p> <p>24 So the -- you would agree with me 25 that the -- at least for the white paper, the</p>	<p style="text-align: right;">Page 100</p> <p>1 we're -- we marked as Exhibit 4. And this is the 2 paragraph that we were talking about. On 3 paragraph 123, that refers to the J4-1 method, and 4 the white paper -- or repealing noting -- 5 according to your paragraph of the "peculiarity of 6 retaining without considera- -- reconsideration 7 for nearly half a century a testing method clearly 8 at odds with current science."</p> <p>9 That's what you state, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And you go on to state in 124, "At 12 no point has the FDA issued any regulation 13 dictating testing specifications for detecting 14 asbestos and talc and instead has relied on 15 industry substantiation of safety. Recognizing 16 the inadequacy of the situation given industry's 17 poor track record of incorporating established 18 science into testing talc-based cosmetic products 19 for potentially harmful components or contaminants 20 the Regulation Modernization Act requires FDA to 21 develop and issue regulations for asbestos 22 testing."</p> <p>23 That -- that's your opinion, and that 24 we've talked about earlier today, correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 99</p> <p>1 understanding -- the FDA's understanding of the 2 J4-1 method included XRD or infrared and PLM, 3 correct? That's what it states?</p> <p>4 DR. THOMPSON: Objection; form.</p> <p>5 A. I do not know the answer to that without 6 additional research. I will note that the 7 interagency working group does not say, "We 8 endorse the J4-1 method."</p> <p>9 BY MR. EWALD:</p> <p>10 Q. I didn't say that they did.</p> <p>11 I'm saying that what the white paper 12 that you cite in your report states, the testing 13 method used for the J4-1 method were XRD or IR and 14 PLM. That's what it states right here, right?</p> <p>15 DR. THOMPSON: Object to form.</p> <p>16 A. I would have to do additional review 17 specific to which testing methods come in which 18 report at which time.</p> <p>19 BY MR. EWALD:</p> <p>20 Q. Okay.</p> <p>21 A. If you'd like me to do that, I guess we 22 can set aside some time for doing it.</p> <p>23 Q. Not -- won't be necessary.</p> <p>24 I want to put back up your amended 25 report. Okay. Back to the amended report</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. Okay. And then you conclude, on the 2 basis of the foregoing, that, "In sum, Johnson & 3 Johnson manipulated asbestos testing and 4 associated publicity so that 'none detectable' 5 would be interpreted as 'none,' distancing itself 6 from allegations of asbestos contamination but 7 never actually eliminating asbestos 8 contamination."</p> <p>9 That's your concluding sentence in 10 paragraph 125, correct?</p> <p>11 A. Correct.</p> <p>12 Q. All right. When you're preparing your 13 amended report and you're looking at the white 14 paper, did you conduct any research to understand 15 what testing methods Johnson & Johnson actually 16 used?</p> <p>17 DR. THOMPSON: Object to form.</p> <p>18 A. I conducted no additional review of those 19 matters, beyond what I might have done in 20 connection with the first report.</p> <p>21 BY MR. EWALD:</p> <p>22 Q. Right. And if we look at the first 23 report -- I'm sorry. If we look at the earlier 24 paragraph, which appears in the first report, you 25 have certain documents -- internal J&J documents</p>

<p style="text-align: right;">Page 102</p> <p>1 -- in the early '70s time frame, correct? 2 A. Yes. 3 Q. And those are all documents that are 4 provided to you by plaintiffs' counsel, correct? 5 A. Some may have been from publicly 6 available sources, but the majority were likely 7 from plaintiffs' counsel. 8 Q. And that's fair. 9 So here if we're seeing what -- I'm 10 not sure if corporate attorneys -- I don't mean 11 any disrespect. Do you know what a Bates number 12 is? 13 A. Only in passing, to be honest. 14 Q. On these par- -- on these footnotes, you 15 do have 33, the Hutt article, but which is a 16 publicly available source, correct? 17 A. Yes. 18 Q. Okay. But if we're talking about J&J 19 Bates number documents in 30, 31, 32, those are 20 the things that you would have received from 21 plaintiffs' counsel, fair? 22 A. I'll take your word for it. 23 Q. Okay. 24 DR. THOMPSON: Are we going to have 25 something that's relevant to the amended</p>	<p style="text-align: right;">Page 104</p> <p>1 bottom, JNJMX68 and then 3591. 2 (Exhibit 14 marked.) 3 A. (Examined exhibit.) 4 DR. THOMPSON: And I'm going to 5 object to a 1978 document in this 6 deposition -- 7 MR. EWALD: Okay. 8 DR. THOMPSON: -- which is covered 9 in his amended report and additional 10 reliance. 11 MR. EWALD: Okay. Objection noted. 12 BY MR. EWALD: 13 Q. Dr. Sage, have you seen this before? 14 A. I don't recall. 15 DR. THOMPSON: We'll see what 16 that -- we'll see what the question is. 17 A. I don't recall. 18 BY MR. EWALD: 19 Q. All right. Well, this is, you see, a -- 20 it has a Johnson & Johnson header -- letterhead, 21 rather, dated February 23rd, 1978, and it's to 22 R.N. Miller, president of Windsor Minerals. 23 Do you know who Windsor Minerals are? 24 A. I don't. But I see "Vermont," so let me 25 assume it's somebody has to do with the mine.</p>
<p style="text-align: right;">Page 103</p> <p>1 report and reliance? 2 MR. EWALD: Yes, we are. Yes. 3 BY MR. EWALD: 4 Q. So in connection with your amended report 5 and looking at the white paper and talking 6 about -- well, you -- you called it a "systematic 7 thoughtful review," right? 8 A. I'm sorry? Say again. 9 Q. Earlier in the deposition, you called the 10 white paper a "systematic thoughtful review" by 11 the interagency working group, right? 12 A. Using those terms in normal parlance, 13 yes. 14 Q. Sure. Okay. So -- I may have already 15 asked this. I apologize. But I got distracted. 16 The story that you give here, the 17 chronology ends in 1976, right, with respect to 18 the Johnson & Johnson and internal company 19 documents and testing methods, correct? 20 A. In the paragraph you showed me, it does, 21 yes. 22 Q. Okay. I just put a two-page document in 23 Chat. And, Doctor, take as long as you want to 24 review it. Is this something that you've seen 25 before? There's a Bates number there at the</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. And that assumption would be correct. 2 And it says, "As you know, Windsor 3 Minerals and the Baby Products Company have 4 already authorized the documentation of a 'no 5 detectable asbestos' requirement in the Windsor 66 6 Talc Material Specification. In this regard, the 7 testing requirement is solely for fibrous 8 amphibole by the CTFA Method J4-1 and is intended 9 to make the specification wholly consistent with 10 the CTFA standard for cosmetic grade talc. 11 "However, we need to recognize that 12 Windsor Minerals and Johnson and Johnson have 13 exercised more extensive controls and testing in 14 the past than just meeting the J4-1 requirement. 15 Furthermore, we intend continuing to surpass the 16 industry standards -- testing as reflected by 17 CTFA's J4-1. During the July 15th, 1977 meeting 18 in your office, we had agreed to the need of 19 documenting the entire audit protocol which has 20 been your standard operating policy and procedure 21 since August 1973 and will continue to be 22 practised by Windsor Materials for Windsor 66 23 Talc." 24 Did I read that correctly? 25 A. As best I can keep up with it, yes.</p>

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<p>1 Q. Yeah.</p> <p>2 DR. THOMPSON: Are you marking this</p> <p>3 as an exhibit?</p> <p>4 MR. EWALD: Yes, I am. That's a</p> <p>5 good suggestion. We'll mark this as</p> <p>6 Exhibit 14.</p> <p>7 DR. THOMPSON: And I, as of yet,</p> <p>8 don't have the relevance of this document</p> <p>9 for his amended report.</p> <p>10 MR. EWALD: Okay. I will explain</p> <p>11 it after -- I think it's obvious, but</p> <p>12 we'll continue on.</p> <p>13 BY MR. EWALD:</p> <p>14 Q. Then it goes on to then state the testing</p> <p>15 methods. And do you see here test CTFA J4-1 for</p> <p>16 fibrous amphibole forms; and then serpentine</p> <p>17 forms, TM 7019; and asbestiform minerals, TM 7024?</p> <p>18 Do you see that there?</p> <p>19 A. Yes.</p> <p>20 DR. THOMPSON: Could you show the</p> <p>21 Bates number on that document?</p> <p>22 MR. EWALD: I did. Yeah, I read</p> <p>23 into the records there at the bottom.</p> <p>24 DR. THOMPSON: Okay. Yeah.</p> <p>25 This --</p>	<p>Page 106</p> <p>1 would like?</p> <p>2 BY MR. EWALD:</p> <p>3 Q. I would like you first to answer my</p> <p>4 question which is a straightforward "yes" or "no."</p> <p>5 Were you aware of any -- were you</p> <p>6 aware of anything about Johnson & Johnson's</p> <p>7 testing methods and whether or not they exceeded</p> <p>8 the industry J4-1 testing standard?</p> <p>9 A. I have been a --</p> <p>10 DR. THOMPSON: Object to form.</p> <p>11 A. I have been aware, whether it was, I</p> <p>12 think, all for the first report, maybe, you know,</p> <p>13 referred to in passing in materials reviewed for</p> <p>14 the revised report. I have been aware of</p> <p>15 different moments in Johnson & Johnson's corporate</p> <p>16 history where it has been more or less attentive</p> <p>17 to the issue of asbestos in its product.</p> <p>18 BY MR. EWALD:</p> <p>19 Q. Okay. Are you aware of -- at any</p> <p>20 point -- well, are you aware of how often</p> <p>21 Johnson & Johnson conducted TEM testing of its</p> <p>22 talc with presence of asbestos?</p> <p>23 A. No.</p> <p>24 DR. THOMPSON: Objection.</p> <p>25 BY MR. EWALD:</p>
<p>1 MR. EWALD: JNJMX68_3592.</p> <p>2 BY MR. EWALD:</p> <p>3 Q. Going back up to this first paragraph</p> <p>4 where they're talking about surpassing industry</p> <p>5 testing as reflected in J4-1, do you know</p> <p>6 anything about that?</p> <p>7 A. I do not know how to answer this</p> <p>8 question. If you want to ask me a question such</p> <p>9 as how do I interpret in light of my report this</p> <p>10 assertion and internal correspondence of Johnson &</p> <p>11 Johnson's desire to comply with a higher standard</p> <p>12 than J4-1, please ask me that question.</p> <p>13 I don't know how to respond to a</p> <p>14 question about this document otherwise.</p> <p>15 Q. Well --</p> <p>16 A. It's like -- to my knowledge, I'm seeing</p> <p>17 it for the first time. I may have seen it before.</p> <p>18 Q. Well, and, you know, my question to you</p> <p>19 is: As you sit here today, do you have any</p> <p>20 knowledge about Johnson & Johnson's testing</p> <p>21 methods and whether or not they did, in fact,</p> <p>22 exceed industry testing reflected in J4-1?</p> <p>23 DR. THOMPSON: Object to form.</p> <p>24 A. You've shown me a document that I'm happy</p> <p>25 to engage with on its face. Is that what you</p>	<p>Page 107</p> <p>1 Q. Okay. And do you see here on -- the</p> <p>2 "Material will be tested for conformance on audit</p> <p>3 basis, frequencies noted according to sample types</p> <p>4 described and tests required"?</p> <p>5 Ground ore. TM 7024 tests. Biweekly</p> <p>6 composite samples by Windsor.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And flash dried talc, test CTFA</p> <p>10 J4-1, TM 7019, weekly composite samples by J&J,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 DR. THOMPSON: Objection. And</p> <p>14 objection to all the questions regarding</p> <p>15 this document. He's not seen the '78.</p> <p>16 MR. EWALD: Okay.</p> <p>17 THE COURT REPORTER: Margaret,</p> <p>18 you're getting very garbled, just so you</p> <p>19 know.</p> <p>20 DR. THOMPSON: Okay. I will try</p> <p>21 not to garble. I don't know --</p> <p>22 (Speaking simultaneously.)</p> <p>23 MR. EWALD: That's better.</p> <p>24 DR. THOMPSON: -- garbley.</p> <p>25 Do I need to repeat anything for</p>

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<p>1 you?</p> <p>2 THE COURT REPORTER: Yeah. Go</p> <p>3 ahead and repeat your objection.</p> <p>4 DR. THOMPSON: The objection was to</p> <p>5 all the questions regarding this document</p> <p>6 that Dr. Sage testified that he had not</p> <p>7 seen before, and it's dated 1978.</p> <p>8 THE COURT REPORTER: Thank you.</p> <p>9 DR. THOMPSON: And having relevance</p> <p>10 to his amended report or additional</p> <p>11 opinions contained in that report.</p> <p>12 MR. EWALD: All right.</p> <p>13 BY MR. EWALD:</p> <p>14 Q. Back to the --</p> <p>15 (Speaking simultaneously.)</p> <p>16 MR. EWALD: I'm sorry. What?</p> <p>17 DR. THOMPSON: I was just asking</p> <p>18 the court reporter if that was any better.</p> <p>19 MR. EWALD: Oh.</p> <p>20 THE COURT REPORTER: Yes.</p> <p>21 MR. EWALD: Yes.</p> <p>22 DR. THOMPSON: Okay. Thank you.</p> <p>23 BY MR. EWALD:</p> <p>24 Q. And then just returning to your amended</p> <p>25 expert report, I want you to assume, for purposes</p>	<p>Page 110</p> <p>1 Q. Answer the question, please.</p> <p>2 DR. THOMPSON: I think --</p> <p>3 (Speaking simultaneously.)</p> <p>4 MR. GOLOMB: Well, except that --</p> <p>5 Wait. Wait. Wait. Wait. Wait.</p> <p>6 Except that this question was</p> <p>7 available to him in 2021 when he testified</p> <p>8 previously. It's not anything that's</p> <p>9 updated in the new report.</p> <p>10 We've given you a lot of leeway</p> <p>11 here today. So I'll explain the time</p> <p>12 frame that you're referring to. If you're</p> <p>13 referring to a time period before November</p> <p>14 of 2021 when this deposition was taken</p> <p>15 previously, then we're gonna object.</p> <p>16 MR. EWALD: Okay. And your</p> <p>17 objection's noted.</p> <p>18 BY MR. EWALD:</p> <p>19 Q. Answer the question.</p> <p>20 DR. THOMPSON: If you know -- have</p> <p>21 knowledge based on your report.</p> <p>22 A. I stand -- I stand by my statement in</p> <p>23 light of the totality of the information that I</p> <p>24 have been presented with and reviewed in the</p> <p>25 course of reviewing the original -- preparing the</p>
<p>1 of my question, that in addition to J4-1,</p> <p>2 Johnson & Johnson tested its talc for presence of</p> <p>3 asbestos using TEM.</p> <p>4 You with me so far?</p> <p>5 A. I will assume that it used TEM at some</p> <p>6 point. I don't have knowledge, unless you want me</p> <p>7 to review a lot more information about when it</p> <p>8 used transmission microscopy and when it didn't.</p> <p>9 Q. That's fair enough. That's why it's a</p> <p>10 hypothetical. I'm asking you to assume a</p> <p>11 hypothetical.</p> <p>12 Assuming that Johnson & Johnson used</p> <p>13 TEM to test its talc for the presence of asbestos</p> <p>14 in addition to the J4-1 method, is it your opinion</p> <p>15 that Johnson & Johnson manipulated asbestos</p> <p>16 testing in associated publicities, but "none</p> <p>17 detectable" would be interpreted as "none"?</p> <p>18 DR. THOMPSON: Object to form.</p> <p>19 MR. GOLOMB: Objection. Can I --</p> <p>20 what is the time frame you're limiting</p> <p>21 your question to?</p> <p>22 MR. EWALD: His paragraph is not</p> <p>23 limited to a time frame. So my question</p> <p>24 is unlimited time frame.</p> <p>25 BY MR. EWALD:</p>	<p>Page 111</p> <p>1 original on the amended reports.</p> <p>2 It is in my expert experience in</p> <p>3 regulatory matters, not unusual for corporations,</p> <p>4 to take different positions and different</p> <p>5 practices over time with respect to risks to the</p> <p>6 public.</p> <p>7 General Motors had one of the early</p> <p>8 patents on airbags and was a supporter of airbag</p> <p>9 technology for many years when other auto makers</p> <p>10 were resistant.</p> <p>11 I notice that J&J in the 1950s had a</p> <p>12 patent on corn starch for use in talcum powder --</p> <p>13 powder products and seemed to be very open to a</p> <p>14 reformulation at that time. Subsequently, it</p> <p>15 wasn't.</p> <p>16 In the 1970s, as we all know, public</p> <p>17 attention on asbestos was extreme in many forms,</p> <p>18 and corporations of many types appeared to have</p> <p>19 made efforts to reassure their consuming public</p> <p>20 regarding asbestos.</p> <p>21 Now, that does not mean that that was</p> <p>22 the position throughout Johnson & Johnson</p> <p>23 corporate history, and I've certainly reviewed</p> <p>24 plenty of information to the contrary.</p> <p>25 And, frankly, I was offended in</p>

<p style="text-align: right;">Page 114</p> <p>1 preparing the first report by the conclusory 2 nature by which Johnson & Johnson, on its website, 3 which constitutes part of its product labeling, 4 was reassuring its mothers and children about the 5 purity and asbestos-free nature of their talcum 6 powder products.</p> <p>7 So I can assume that at some point in 8 Johnson & Johnson's corporate history, it 9 attempted to behave responsibly with respect to 10 both testing and the use of testing. But I have 11 seen nothing to indicate that that was a 12 consistent practice, and I stand by my opinion.</p> <p>13 BY MR. EWALD:</p> <p>14 Q. Well, so you are assuming that it behaved 15 responsibly at some point in time, but you 16 haven't -- you don't know how much. That's 17 because you have not asked for documentation from 18 plaintiffs' counsel as to how frequently Johnson & 19 Johnson tested its talc and in what manner, 20 correct?</p> <p>21 DR. THOMPSON: Object to form.</p> <p>22 A. As I've said before, anything you would 23 like to show me I will be happy to review.</p> <p>24 BY MR. EWALD:</p> <p>25 Q. Okay. I've shown you some stuff, and I</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Better?</p> <p>2 DR. THOMPSON: Sorry, guys. 3 Richard walked out for a minute, and I -- 4 he had it unmuted, but I turned down the 5 volume. That should help.</p> <p>6 MR. EWALD: All right. That sounds 7 better. Sorry about that.</p> <p>8 DR. THOMPSON: Sorry.</p> <p>9 MR. EWALD: No.</p> <p>10 BY MR. EWALD:</p> <p>11 Q. So the white paper, we went over it, and 12 I understand -- well, the testimony will speak for 13 itself.</p> <p>14 I want you to assume that -- for 15 purposes of my question -- that the white paper 16 from December of 2021 is recommending that in 17 order to test for the presence of asbestos in 18 cosmetic talc, that companies use both TEM and 19 PLM.</p> <p>20 Do you have that hypothetical in your 21 head?</p> <p>22 DR. THOMPSON: Object to form.</p> <p>23 A. To some extent, yes, but I'm not 24 following the purpose of the question.</p> <p>25 BY MR. EWALD:</p>
<p style="text-align: right;">Page 115</p> <p>1 have limited time.</p> <p>2 I want to know, based on what you 3 have reviewed for your deposition today and for 4 the expert opinions that you are offering, to a 5 reasonable degree of scientific certainty, am I 6 correct that you have not reviewed and not 7 received from plaintiffs' counsel documents that 8 indicate how often and in what manner Johnson & 9 Johnson tested its talc with the presence of 10 asbestos?</p> <p>11 DR. THOMPSON: Object to form and 12 beyond the scope of his amended report.</p> <p>13 A. I have not received documents for my 14 amended report. I received many documents from my 15 original report. The details of them I do not 16 recall.</p> <p>17 BY MR. EWALD:</p> <p>18 Q. Okay. We talked about the white paper 19 that you cite in your amended report the first 20 time, and if -- you know, if you assume, 21 hypothetically, if --</p> <p>22 A. One moment. Dealing with an unattended 23 computer and an echo.</p> <p>24 Q. Oh, I'm sorry.</p> <p>25 A. Try again.</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. Well, that's coming.</p> <p>2 So with that hypothetical, is it your 3 opinion that the interagency working group, by 4 recommending testing for the presence of asbestos 5 in cosmetic talc by using TEM and PLM, is 6 manipulating asbestos testing and associating 7 publicities that "none detectable" would be 8 interpreted as "none"?</p> <p>9 DR. THOMPSON: Object to form as to 10 the assumption and as to the relevance to 11 the amended report.</p> <p>12 A. You were quoting a paragraph in my 13 original report that was unaltered in the 14 amendment.</p> <p>15 BY MR. EWALD:</p> <p>16 Q. Yes.</p> <p>17 A. That is explicitly and, by location, a 18 summary of material that preceded it, not limited 19 to a single paragraph, and I stand by it.</p> <p>20 Q. But I didn't ask you about Johnson & 21 Johnson.</p> <p>22 I said, if FDA is recommending the 23 use of TEM and PLM for testing the presence of 24 cosmetic talc -- presence of asbestos in cosmetic 25 talc, is it your opinion that the FDA is</p>

<p style="text-align: right;">Page 118</p> <p>1 manipulating asbestos testing?</p> <p>2 DR. THOMPSON: Same objection.</p> <p>3 A. That would be a peculiar inference, and I</p> <p>4 don't have a better answer to the question. I</p> <p>5 don't believe there is a question here as to the</p> <p>6 good faith of the post-2019 FDA.</p> <p>7 BY MR. EWALD:</p> <p>8 Q. Is there a question about the good faith</p> <p>9 of post- -- pre- -- 2019 FDA?</p> <p>10 A. You're asking me about a 2020 interagency</p> <p>11 working group.</p> <p>12 Q. I know. I'm asking you --</p> <p>13 A. I -- I have seen -- as I said, a long</p> <p>14 period of regulatory stasis poses questions to an</p> <p>15 expert on regulatory processes, regulation, and</p> <p>16 legislation. So yes, there are questions, as I</p> <p>17 said before. The more -- the inferences one draws</p> <p>18 are arranged from budgetary considerations to</p> <p>19 industry involvement to several other things.</p> <p>20 And I have certainly seen enough</p> <p>21 material with public and nonpublic in preparing</p> <p>22 the original report as well as the amendment that</p> <p>23 make me be inter- -- make me quite interested in</p> <p>24 the knowing as much as possible about that</p> <p>25 history.</p>	<p style="text-align: right;">Page 120</p> <p>1 (Exhibit 15 marked.)</p> <p>2 A. Date?</p> <p>3 BY MR. EWALD:</p> <p>4 Q. 2023 [sic-2022].</p> <p>5 A. Okay.</p> <p>6 Q. Doctor, is this something you've seen</p> <p>7 before?</p> <p>8 A. (Examined exhibit.) No.</p> <p>9 Q. Okay. All right.</p> <p>10 Now I want to go to the GAO report.</p> <p>11 (Short pause.) Give me just a moment.</p> <p>12 Okay. My .pdf -- Acrobat crashed</p> <p>13 earlier, so I had to recover some things.</p> <p>14 Okay. The GAO report, which we've</p> <p>15 marked as Exhibit 8 --</p> <p>16 MR. GOLOMB: What is the date of</p> <p>17 the report?</p> <p>18 MR. EWALD: The date of the report</p> <p>19 is December 2023. And --</p> <p>20 DR. THOMPSON: What?</p> <p>21 MR. EWALD: I'm sorry? What?</p> <p>22 DR. THOMPSON: Are we still talking</p> <p>23 about Sanchez?</p> <p>24 MR. EWALD: No.</p> <p>25 DR. THOMPSON: Okay. I don't see</p>
<p style="text-align: right;">Page 119</p> <p>1 I really struggle with your client's</p> <p>2 approach to being forthcoming about the risks it</p> <p>3 just created with its hazardous products.</p> <p>4 Q. All right. Whoops. I can't share my</p> <p>5 screen yet. You'll see all my secrets.</p> <p>6 A. No worries on that.</p> <p>7 Q. All right. I'm putting in the Chat --</p> <p>8 all right. Okay, I put in the Chat a scientific</p> <p>9 article -- although I didn't give you the -- the</p> <p>10 way, you know, the lead -- I basically just want</p> <p>11 to know whether you've seen this before. And if</p> <p>12 you haven't, maybe it'll be good reading for</p> <p>13 later --</p> <p>14 A. Was this Sanchez that -- in this one?</p> <p>15 Q. Yes.</p> <p>16 A. Okay.</p> <p>17 Q. Okay. First, we mark it. Let's goes</p> <p>18 through the normal process.</p> <p>19 I'm marking as Exhibit 15 an article,</p> <p>20 "Environmental Research," from Matthew Sanchez,</p> <p>21 amongst others. "Characterization of elongate</p> <p>22 mineral particles including talc, amphiboles, and</p> <p>23 biopyriboles observed in mineral derived powders:</p> <p>24 Comparisons of analysis of the same talcum powders</p> <p>25 sampled by two laboratories."</p>	<p style="text-align: right;">Page 121</p> <p>1 anything else in yet.</p> <p>2 THE WITNESS: We had it as an</p> <p>3 exhibit already. We went back to the GAO</p> <p>4 report.</p> <p>5 DR. THOMPSON: Oh, I'm sorry.</p> <p>6 (Speaking simultaneously.)</p> <p>7 MR. EWALD: It's Exhibit -- yes,</p> <p>8 yes, so this is the GAO report.</p> <p>9 DR. THOMPSON: Oh, the GAO. Okay.</p> <p>10 I'm sorry.</p> <p>11 MR. EWALD: No worries.</p> <p>12 BY MR. EWALD:</p> <p>13 Q. If we go --</p> <p>14 MS. PARFITT: Is it Exhibit 8?</p> <p>15 MR. EWALD: Yes.</p> <p>16 BY MR. EWALD:</p> <p>17 Q. If you will go to page 19 -- actually,</p> <p>18 .pdf page 23, but the actual page on the paper</p> <p>19 version is 19. Let me blow it up here a little</p> <p>20 bit.</p> <p>21 In this discussion, it talks about,</p> <p>22 you see, Doctor, "In addition, some studies</p> <p>23 suggest associations between asbestos</p> <p>24 contamination of talc and negative health</p> <p>25 effects."</p>

<p style="text-align: right;">Page 122</p> <p>1 You see where I'm talking about?</p> <p>2 A. Yes.</p> <p>3 Q. And it says, "Specifically, one study we</p> <p>4 reviewed suggested the talc used in cosmetics -</p> <p>5 also known as talcum powder - may sometimes be</p> <p>6 contaminated with asbestos," and it has a footnote</p> <p>7 cite to -- 47.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. If we go down, is -- the cite is to</p> <p>11 "Jacqueline Moline, Kesha Patel, and Arthur L.</p> <p>12 Frank, 'Exposure to cosmetic talc and</p> <p>13 mesothelioma,' Journal of Occupational Medicine</p> <p>14 and Toxicology," in 2023.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Have you -- are you familiar with that</p> <p>18 article from Dr. Moline?</p> <p>19 A. No.</p> <p>20 Q. Are you familiar with an article that she</p> <p>21 published on cosmetic talc and mesothelioma in</p> <p>22 2020?</p> <p>23 A. If it had been -- I read several</p> <p>24 scientific articles on various aspects of health</p> <p>25 risks from talcum powder, asbestos, and other</p>	<p style="text-align: right;">Page 124</p> <p>1 to this study, including potential biases inherent</p> <p>2 inherent in studies of cases for which data were</p> <p>3 collected as part of litigation. Patients'</p> <p>4 exposure history was collected in sworn testimony</p> <p>5 from patients and patients' families as part of</p> <p>6 the litigation's and medical-legal review."</p> <p>7 And goes on and -- I'm sorry. I</p> <p>8 guess it should be one more sentence from the</p> <p>9 text. "This case study in patients with a</p> <p>10 mesothelioma diagnosis found that in 122 of 166</p> <p>11 cases, the only known exposure to asbestos was</p> <p>12 from cosmetic talc."</p> <p>13 That's what it reads in the text,</p> <p>14 right?</p> <p>15 A. It does.</p> <p>16 Q. All right. And do -- in this section of</p> <p>17 the GAO report that you put on your Materials</p> <p>18 Considered list, does -- does it list any article,</p> <p>19 other than Moline in 2023, in talking about</p> <p>20 potential studies suggesting associations between</p> <p>21 asbestos contamination and talc and negative</p> <p>22 health effects?</p> <p>23 A. I would have to reread the report to see.</p> <p>24 But in my expert opinion, it does not matter</p> <p>25 because my expert review of the GAO report showed</p>
<p style="text-align: right;">Page 123</p> <p>1 things in connection with my first report. I, in</p> <p>2 fact, requested them of counsel and went</p> <p>3 through -- I don't know -- 10 or 15 peer-reviewed</p> <p>4 articles at the time. I would have to look at a</p> <p>5 list to know if that was among them.</p> <p>6 Q. And I'm not trying to tread that ground.</p> <p>7 But would -- if you had reviewed it,</p> <p>8 would it be on your Materials Considered list from</p> <p>9 your first report?</p> <p>10 A. It should have been. Those were all my</p> <p>11 articles that were provided on my request by</p> <p>12 counsel.</p> <p>13 Q. Okay. And the GAO report goes on a</p> <p>14 little bit further in that last paragraph. Starts</p> <p>15 there in the middle, "However, one study reviewed</p> <p>16 suggested that the inhalation of talc contaminated</p> <p>17 with asbestos may be associated with mesothelioma,</p> <p>18 a type of cancer that develops on the thin layer</p> <p>19 of tissue that lines the lungs, chest wall, and</p> <p>20 many internal organs," and it cites to</p> <p>21 Footnote 48, right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And then Footnote 48 is "Moline,</p> <p>24 Patel, and Frank." The same article. Goes on to</p> <p>25 state that, "The authors noted several limitations</p>	<p style="text-align: right;">Page 125</p> <p>1 that the GAO report's strength was the expertise</p> <p>2 brought to bear on compliance with government</p> <p>3 processes. Its handling of the context and</p> <p>4 science is abbreviated and not particularly</p> <p>5 compelling.</p> <p>6 Q. Correct. At least from what we've looked</p> <p>7 at in Footnotes 47, 48, 49, the only scientific</p> <p>8 article that's included there is the Moline</p> <p>9 article, correct?</p> <p>10 A. I will take your word for it. What you</p> <p>11 read me, that's the only scientific article. But</p> <p>12 as I said before, I don't think anyone would rely</p> <p>13 on this report for the analysis of the underlying</p> <p>14 science. The utility of this report, for my</p> <p>15 amendment and the revision, was the FDA's ongoing</p> <p>16 efforts to comply with the Modernization Act, and</p> <p>17 it's really the second half of the report that</p> <p>18 goes to that. The first part of the report is</p> <p>19 something I did read, but I did not rely on. It</p> <p>20 is not that type of expertise.</p> <p>21 Q. After -- at any point in time after your</p> <p>22 deposition in September of 2021, did you</p> <p>23 communicate with Dr. Longo?</p> <p>24 A. No.</p> <p>25 Q. At any point in time after your</p>

32 (Pages 122 - 125)

<p style="text-align: right;">Page 126</p> <p>1 deposition in September of 2021 -- 2021, did you 2 communicate in any way with Dr. Mark Rigler? 3 A. No. I'm not sure I remember who that is. 4 Is that the other author on the report? 5 Q. He is the author on the Longo report that 6 you had earlier, yes. 7 In preparing for today's deposition, 8 did you -- well, let me rephrase the question. 9 In preparing your opinions contained 10 in your amended expert report, did you communicate 11 with any individuals, apart from plaintiffs' 12 counsel, about those opinions? 13 A. No. 14 Q. Approximately how much time did you spend 15 preparing for today's deposition? 16 A. Preparing for today's deposition? And 17 I'm not hesitating to answer. I'm trying to think 18 about it in my mind. 19 Q. That's fine. 20 A. I mean, that required looking at what I 21 had done before, reading my report, you know, 22 several times to -- and then rereading the 23 Modernization Act and the cited materials from CRS 24 and making sure I had it all in my head. So 25 probably the answer to that is between 10 and 15</p>	<p style="text-align: right;">Page 128</p> <p>1 DR. THOMPSON: -- and come back? I 2 don't expect to have much, but -- 3 MR. EWALD: Sure. 4 DR. THOMPSON: -- I want to 5 converse with co-counsel. Thanks. 6 MR. EWALD: Sure. 7 DR. THOMPSON: I got it. 8 THE COURT REPORTER: All right. 9 We're off the record at 12:22. 10 (A recess was taken from 12:22 p.m. to 11 12:25 p.m.) 12 THE COURT REPORTER: Back on the 13 record at 12:25 p.m. 14 EXAMINATION 15 BY DR. THOMPSON: 16 Q. Dr. Sage, was there anything that you 17 heard in this morning's deposition from counsel, 18 that changes the opinions that you have in your 19 previous testimony? 20 A. No. 21 Q. And you stand by the opinions that you've 22 provided in your initial expert report, your 23 amended expert report, and these two depositions? 24 A. Yes. 25 DR. THOMPSON: No further</p>
<p style="text-align: right;">Page 127</p> <p>1 hours. 2 Q. And did you meet with counsel in 3 preparation for today's deposition? 4 A. Yes. 5 Q. And I don't want to know anything about 6 the content of those communications. I just want 7 to know approximately how long those meetings 8 were. 9 A. We probably had an hour to an hour and a 10 half of calls and two hours of face-to-face. 11 Q. Okay. And who participated -- which 12 counsel participated in those preparation 13 sections? 14 A. Dr. Thompson, Mr. Golomb. And that's 15 really it. Ms. O'Dell very, very briefly. But it 16 wasn't really a part of the preparation. 17 MR. EWALD: Doctor, subject to any 18 questions that your counsel -- or 19 plaintiffs' counsel may have, I don't have 20 any further questions at this time. Thank 21 you for your time. 22 THE WITNESS: Thank you so much. 23 DR. THOMPSON: Could we just take a 24 five-minute break -- 25 MR. EWALD: Sure.</p>	<p style="text-align: right;">Page 129</p> <p>1 questions. 2 MR. EWALD: I have nothing further. 3 MR. GOLOMB: No further questions. 4 5 (Following discussion had for 6 administrative purposes.) 7 8 THE COURT REPORTER: I have a 9 couple admin questions for y'all. 10 Mr. Ewald, would you like a rough 11 draft with your transcript? 12 MR. EWALD: Yes, I would. And I 13 believe we can follow the standing order. 14 THE COURT REPORTER: Yes, sir, I 15 would, but the entire standing order is 16 struck-through. 17 MR. EWALD: Well, you can go with 18 it not being struck-through, and I would 19 like the standing order. 20 THE COURT REPORTER: Yes, sir. 21 That would be a rough draft and regular 22 delivery of the final transcript. 23 MR. EWALD: Yes, ma'am. Correct. 24 THE COURT REPORTER: Dr. Thompson, 25 I have your standing order down for a</p>

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1 rough draft and regular delivery.
2 DR. THOMPSON: Yes, ma'am. That is
3 correct. Thank you.
4 THE COURT REPORTER: And may I send
5 you signature for the witness?
6 DR. THOMPSON: Yes, you can. And
7 I'll take care of it with the witness.
8 THE COURT REPORTER: Yes, ma'am.
9 Mr. Golomb, would you like a copy
10 of the transcript?
11 MR. GOLOMB: No thank you. I don't
12 need a copy.
13 THE COURT REPORTER: Yes, sir.
14 Thank you.
15 With that, that concludes our
16 deposition today.
17
18 (Remote deposition concluded at
19 12:27 p.m., April 1, 2024.)
20
21
22
23
24
25

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1 I, WILLIAM SAGE, M.D., J.D., have read the
2 foregoing deposition and hereby affix my signature
3 that same is true and correct, except as noted
4 above.
5 _____
6 WILLIAM SAGE, M.D., J.D.
7
8 THE STATE OF _____)
9 COUNTY OF _____)
10 Before me, _____, on
11 this day personally appeared WILLIAM SAGE, M.D.,
12 J.D., known to me (or proved to me under oath or
13 through _____) (description
14 of identity card or other document) to be the
15 person whose name is subscribed to the foregoing
16 instrument and acknowledged to me that they
17 executed the same for the purposes and
18 consideration therein expressed.
19 Given under my hand and seal of office this
20 _____ day of _____, 2024.
21
22
23
24 NOTARY PUBLIC IN AND FOR
25 THE STATE OF

Page 13

1 CHANGES AND SIGNATURE

2 WITNESS NAME: WILLIAM SAGE, M.D.

3 DATE: APRIL 1, 2024

4 PAGE/LINE CHANGE REASON

5 _____

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25 _____

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3
4 IN RE JOHNSON & JOHNSON §
5 TALCUM POWDER PRODUCTS § MDL NO.:
6 MARKETING, SALES §
7 PRACTICES, AND PRODUCTS § 16-2738(MAS)(RLS)
8 LIABILITY LITIGATION §
9
10 *****
11 REMOTE VIDEOCONFERENCED DEPOSITION OF
12 WILLIAM SAGE, M.D.
13 APRIL 1, 2024
14 *****
15
16 CERTIFIED STENOGRAPHIC
17 COURT REPORTER'S CERTIFICATE
18
19 I, Karen L. D. Schoeve, RDR, CRR, RSA,
20 residing in the State of Texas, do hereby certify
21 that the foregoing proceedings were reported
22 remotely by me and that the foregoing transcript
23 constitutes a full, true, and correct transcription
24 of my stenographic notes, to the best of my ability
25 and hereby certify to the following:
26 By agreement of all attending attorneys, the
27 witness, WILLIAM SAGE, M.D., was remotely duly
28 sworn by the officer and that the transcript of the

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1 oral deposition is a true record of the testimony
2 given by the witness;
3 That the original deposition was delivered to
4 John Ewald, custodial attorney;
5 That a copy of this certificate was served on
6 all parties and/or the witness shown herein on
7 _____.

8 I further certify that the signature of the
9 witness was requested by the witness or a party
10 before the completion of the deposition and the
11 signature is to be returned within 30 days from
12 date of receipt of the transcript.

13 If returned, the attached Changes and
14 Signature Page contains any changes and the reasons
15 therefor.

16 That pursuant to information given to the
17 deposition officer at the time said testimony was
18 taken, the following includes counsel for all
19 parties of record:

20

21 FOR THE MDL PLAINTIFFS:

22 MARGARET M. THOMPSON, ESQUIRE
BEASLEY ALLEN, P.C.

23

24 FOR THE PLAINTIFF STEERING COMMITTEE:

25 MICHELLE A. PARFITT, ESQUIRE
ASHCRAFT & GEREL

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1 FOR PLAINTIFF NEW JERSEY STATE COURT:
2 RICHARD GOLOMB, ESQUIRE
GOLOMB LEGAL
3

4 FOR DEFENDANT JOHNSON & JOHNSON:
5 JOHN EWALD, ESQUIRE
KING & SPALDING LLP
6
7
8 I further certify that I am neither counsel
9 for, related to, nor employed by any of the parties
10 in the action in which this proceeding was taken,
11 and further that I am not financially or otherwise
12 interested in the outcome of the action.
13
14 Subscribed and sworn to on this the 11th day
15 of April, 2024.
16
17
18
19 
Karen L.D. Schoeve, RDR, CRR, RSA
20 NCRA Exp. Date: 09-30-24
Litigation Services
21 Firm Registration No. 726
3960 Howard Hughes Parkway, Suite 700
22 Las Vegas, Nevada 89169
T: 877.370.3777
23 F: 917.591.5672
24 Job No. 6485334
25

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.